DOCUMENT RESUME

ED 187 023 EA 012 700

TITLE	Legislative History of Public Law 96-88, Department of Education Organization Act. Part 1 and Part 2. 96th Congress, 2d Session. Committee Print.
INSTITUTION	Congress of the U.S. , Washington, D.C. Senate Committee on Government Operations.
PUB DATE	80
NOTE	1,866p.: Not available in paper copy due to illegibility of sections of document.
EDRS PRICE	MF16 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Educational Legislation; Elementary Secondary Education; *Federal Legislation; Higher Education; *History
IDENTIFIERS	*Department of Education Organization Act

ABSTRACT

These two books contain the historical documents that led to the signing into law of the Department of Education Organization Act (Public Law 96-88). Included are thousands of pages of congressional testimony, reports, and floor debates. Part 1 deals with Senate action, including introduction of the bill: part 2 reproduces House, conference, and executive action. (Author/LD)

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ED187023

96th Congress
2d Session

COMMITTEE PRINT

LEGISLATIVE HISTORY
OF
PUBLIC LAW 96–88
DEPARTMENT OF EDUCATION ORGANIZATION ACT

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
PART 1

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE
59-332 O WASHINGTON : 1980

EA 012 700

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JUN 2 1980

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PREFACE

On Wednesday, October 17, 1979, President Carter signed into law the Department of Education Organization Act (Public Law 96–88), thereby ending with the stroke of a pen the long, 120-year quest of educators, parents, students, and citizens to give education high visibility, attention, and status at the national level.

The Department of Education thus becomes our 13th Cabinet department. But of those 13 agencies, none has been more thoroughly debated than the Education Department. Its long legislative history includes thousands of pages of congressional testimony, reports, and floor debate. Even a light reading of these historical documents would show how Congress closely scrutinized and debated the bills' provisions and issues.

Robert Heffernan and Marilyn Harris of the committee staff provided assistance in the preparation of this compilation.

The printing of this "Legislative History" of the Department of Education should help researchers and the public to understand the many issues debated, and to appreciate the extent and thoroughness of congressional deliberations on the subject.

ABE RIBICOFF,
Chairman,
Committee on Governmental Affairs
United States Senate.

February 1980

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DEPARTMENT OF EDUCATION ORGANIZATION ACT

Public Law 96-88
96th Congress

An Act

Oct. 17, 1979
[S. 210]

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Education Organization Act.

SHORT TITLE; TABLE OF CONTENTS

20 USC 3401 note.

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

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TITLE I—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds that— 20 USC 3401.

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more

effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

20 USC 3402. SEC. 102. The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this Act are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

FEDERAL-STATE RELATIONSHIPS

20 USC 3403. SEC. 103. (a) It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

DEFINITIONS

20 USC 3404.

SEC. 104. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term "office" includes any office, institute, council, unit, organizational entity, or component thereof.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

20 USC 3411.

SEC. 201. There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

Secretary of Education, appointment and confirmation.

PRINCIPAL OFFICERS

Under Secretary, appointment and confirmation.
20 USC 3412.

SEC. 202. (a)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(2)(A) The Under Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Under Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Under Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b)(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) an Assistant Secretary for Civil Rights; and

(G) a General Counsel.

Assistant Secretaries and General Counsel, appointment and confirmation.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

Inspector General, appointment.
92 Stat. 1101.
5 USC app.
Post, p. 692.

(c) There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act).

Additional officers, appointment and confirmation.
Functions.

(d) There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents.

(f) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(g) Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

OFFICE FOR CIVIL RIGHTS

20 USC 3413.

SEC. 203. (a) There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 202(b). Notwithstanding the provisions of section 412 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 301(a)(3).

Report to Secretary, President, and Congress.

(b)(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

5 USC 5101 *et seq.*
5 USC 5331.

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

3 CFR 1978 Comp., p. 236.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

20 USC 3414. SEC. 204. There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate.

OFFICE OF POSTSECONDARY EDUCATION

20 USC 3415. SEC. 205. There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF VOCATIONAL AND ADULT EDUCATION

20 USC 3416. SEC. 206. There shall be in the Department an Office of Vocational and Adult Education, to be administered by the Assistant Secretary for Vocational and Adult Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

20 USC 3417. SEC. 207. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 202(b). Notwithstanding the provisions of section 412, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 301(a)(1) (with respect to the bureau for the education and training of the handicapped), 301(a)(2)(H), and 301(a)(4).

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

20 USC 3418. SEC. 208. There shall be in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator of Education for Overseas Dependents appointed under section 202(e). Notwithstanding the provisions of section 412, the Secretary shall delegate to the Administrator all functions, other than administrative and support functions, transferred to the Secretary under section 302.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

20 USC 3419. SEC. 209. There shall be in the Department an Office of Educational Research and Improvement, to be administered by the Assistant

Secretary for Educational Research and Improvement appointed under section 202(b). The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Sec. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

20 USC 3420.

OFFICE OF GENERAL COUNSEL

Sec. 211. There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(b). The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

20 USC 3421.

OFFICE OF INSPECTOR GENERAL

Sec. 212. There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act).

20 USC 3422.

92 Stat. 1101.
5 USC app.
Post, p. 692.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Sec. 213. (a) There shall be in the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereafter referred in this section as the "Council"). The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

20 USC 3423.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

Functions.

(A) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(B) make recommendations for the improvement of the administration and operation of Federal education and education related programs;

(C) promote better intergovernmental relations;

(D) submit, biennially or more frequently (if determined necessary by the Council), a report to the Secretary, the President, and the Congress (i) reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and (ii) assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

Report to Secretary, President, and Congress.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine

Regulations review.

the impact or potential impact of such rules or regulations on State and local governments and public and private educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rule or regulation. If a report by the Council concerns a proposed rule or regulation, it shall be submitted to the Secretary within the time established for public comment on the proposed rule or regulation, and shall be placed in the file of the proceeding concerning the proposed rule or regulation. Report.

Members. (c)(1) The Council shall be composed of twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, from among board members, chief education officials, administrators, and teachers;

(C) five representatives of public and private postsecondary education, from among board members, chief education officials, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) In making appointments under this subsection, the President shall—

(A) consult with representatives of the groups specified in subparagraphs (A) through (D) of paragraph (1); and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

(3) The Under Secretary shall be an ex officio member of the Council.

Terms of office. (4) The term of office of a member of the Council shall be four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(5) The President shall designate one member to chair the Council.

(6) Any vacancy in the Council shall not affect its authority.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The Secretary shall provide the Council with such other staff, facilities, services, and support as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

20 USC 3424. SEC. 214. (a) There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the "Committee"). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

Members.

(c) The Committee shall be composed of the Secretary, who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

Study.

(e) The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

Report to Secretary and Congress.

(f) The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) The Secretary and the head of each agency represented on the Committee under subsection (c) shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are transferred to the Secretary—

20 USC 3441.

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act; 20 USC 1221.

(B) the Elementary and Secondary Education Act of 1965; 20 USC 821 note.

(C) the Higher Education Act of 1965; 20 USC 1001 note.

(D) the Education Amendments of 1978; 92 Stat. 2143.

(E) the Act of August 30, 1890 (7 U.S.C. 321–328); 20 USC 2701 note.

(F) the National Defense Education Act of 1958;

(G) the International Education Act of 1966; 20 USC 401 note.

(H) the Education of the Handicapped Act; 20 USC 1171 note.

20 USC 871 note.

42 USC 2929.

(I) part B of title V of the Economic Opportunity Act of 1964;

20 USC 1501 note.

(J) the National Commission on Libraries and Information Science Act;

20 USC 2301 note.

(K) the Vocational Education Act of 1963;

20 USC 2601 note.

(L) the Career Education Incentive Act;

(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

D.C. Code 31-1051 note.

(N) the Model Secondary School for the Deaf Act;

47 USC 390.

(O) subpart A of part IV of title III of the Communications Act of 1934 with respect to the telecommunications demonstration program;

40 USC 484.

(P) section 203(k) of the Federal Property and Administrative Services Act of 1949 with respect to donations of surplus property for educational purposes; and

21 USC 1001 note.

(Q) the Alcohol and Drug Abuse Education Act;

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil Rights which relate to functions transferred by this section;

29 USC 701 note.

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act;

42 USC 422, 1382d.

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973;

(5) all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare, and of the Director thereof;

(6) all functions of the Advisory Council on Education Statistics; and

(7) all functions of the Federal Education Data Acquisition Council.

(b) There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2);

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973;

(4) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(5) the Advisory Council on Education Statistics;

(6) the Federal Education Data Acquisition Council; and

(7) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education functions transferred by this section.

(d) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary. 42 USC 2928.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a) Notwithstanding the provisions of section 601 of this Act, at such time not later than three years after the effective date of this Act, and in such manner, as the President may designate, there shall be transferred to the Secretary all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) relating to the operation of overseas schools for dependents of the Department of Defense and all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) under the Defense Dependents' Education Act of 1978. There shall be transferred to the Department the offices established by such Act. 20 USC 3442. 92 Stat. 2365. 20 USC 921.

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the functions transferred under subsection (a). 20 USC 901 note.

Transfer of functions plan, transmittal to Congress.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing the plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools. The plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE DEPARTMENT OF LABOR

Migrant education.
20 USC 3443.

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after the effective date of this Act as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

29 USC 873.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFERS OF PROGRAMS FROM THE NATIONAL SCIENCE FOUNDATION

Science education.
20 USC 3444.

42 USC 1861 note.

SEC. 304. (a)(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this Act pursuant to the National Science Foundation Act of 1950, except the programs or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

Report.

(c) The annual report to be transmitted by the Secretary pursuant to section 426 shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

Law enforcement education.
20 USC 3445.

SEC. 305. There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

42 USC 3746.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

College housing loans.
20 USC 3446.
12 USC 1749.

SEC. 306. There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

20 USC 3447.

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

20 USC 3461.

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

3 CFR 1978 Comp., p. 236.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 209 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed hereunder.

Termination.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

92 Stat. 1177.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding the effective date of this Act.

5 USC 5101 *et seq.*, 5331.

3 CFR 1978 Comp., p. 236.

(c) The Secretary may appoint, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 209 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of such title.

Limited-term appointees.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire on the later of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

Indian preference law application.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function or office transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function or office transferred by this Act and subject to any such law shall continue to be subject to any such law.

"Civilian component."

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

20 USC 3462.

3 CFR 1978 Comp., p. 236.

SEC. 402. The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

PERSONNEL REDUCTION AND ANNUAL LIMITATIONS

20 USC 3463.

SEC. 403. (a)(1) Notwithstanding any other provision of this Act, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

Reports to Congress.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the

allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated.

5 USC 901 *et seq.*

(3) If the President transmits any reorganization plan under chapter 9 of title 5, United States Code, which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this Act shall be reduced by 500.

(c)(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5, United States Code, and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

Report to Congress.

(d) The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

GENERAL AUTHORITY

20 USC 3471.

SEC. 411. (a) In carrying out any function transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

DELEGATION

20 USC 3472. Sec. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

20 USC 3473. Sec. 413. (a) The Secretary is authorized, subject to the requirements of section 202(f), to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b);

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this Act.

(b)(1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of Bilingual Education;
(B) the Teacher Corps;
(C) the Community College Unit;
(D) the National Center for Education Statistics;
(E) the National Institute of Education;
(F) the Office of Environmental Education;
(G) the Office of Consumers' Education;
(H) the Office of Libraries and Learning Resources;
(I) the Office of Indian Education;
(J) the Office of Career Education;
(K) the Office of Non-Public Education;
(L) the bureau for the education and training for the handicapped;
(M) the Institute of Museum Services; and
(N) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

Congressional committees, notice.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

RULES

20 USC 3474.

SEC. 414. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

5 USC 500 *et seq.*
20 USC 1232.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306.

CONTRACTS

20 USC 3475.
40 USC 471 note.

SEC. 415. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 421.

REGIONAL AND FIELD OFFICES

20 USC 3476.

SEC. 416. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

20 USC 3477.

SEC. 417. (a) The Secretary is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act);

(B) laboratories;

(C) research and testing sites and facilities;

(D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

20 USC 2564. (b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

20 USC 3478. SEC. 418. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

20 USC 3479. SEC. 419. (a)(1) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 302 (and the consequent transfer of personnel), all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949. 40 USC 472.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 420. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department: 20 USC 3480.

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 421. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary. 20 USC 3481.

TECHNICAL ADVICE

SEC. 422. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department. 20 USC 3482.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

WORKING CAPITAL FUND

SEC. 423. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal Establishment. 20 USC 3483.

year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

20 USC 3484.

SEC. 424. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF DEPARTMENT

20 USC 3485.

SEC. 425. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

Report to President and Congress.
20 USC 3486.

SEC. 426. (a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

Non-Federal personnel.

(b) The report required by subsection (a) shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 415 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

20 USC 3487.
20 USC 1221.

SEC. 427. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

20 USC 3488.

SEC. 428. Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

20 USC 3501.

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

31 USC 581c.
Unexpended funds.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

20 USC 3502. **Sec.** 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

20 USC 3503. **Sec.** 503. (a)(1) On the effective date of this Act, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(2) Whenever the President exercises the authority under section 302(a), the Office of Dependents' Education of the Department of Defense shall terminate.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

INCIDENTAL TRANSFERS

20 USC 3504. **Sec.** 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this Act. The Director shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior

Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges— 20 USC 3505.

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Secretary or the Department, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department. Regulations.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions Judicial review.

had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

20 USC 3506. Sec. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

20 USC 3507. Sec. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this Act transfers such functions.

AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by inserting immediately after paragraph (4) the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof the following:

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(f) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (41); and

(2) by inserting after paragraph (36) the following new paragraphs:

"(37) Additional officers, Department of Education, (4).

"(38) Administrator of Education for Overseas Dependents, Department of Education.".

5 USC 5311. (g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare"

each place it appears and inserting in lieu thereof "Health and Human Services".

29 USC 801 note. (h) The Comprehensive Employment and Training Act is amended—

29 USC 821. (1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education, educational programs conducted for offenders, institutional training, health care, child care, and other supportive services, and new careers and job restructuring in the health, education, and welfare professions.";

92 Stat. 1945. 29 USC 829. (2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof a comma and the following: "the Secretary of Education, and the Secretary of Health and Human Services";

29 USC 873. (3) in section 302(c), by striking out paragraph (3) and inserting in lieu thereof the following:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).";

92 Stat. 1968. 29 USC 879. (4) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

92 Stat. 1972. 29 USC 882. (5) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

92 Stat. 1987. 29 USC 914. (6) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

29 USC 952. (7) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

21 USC 1004. (i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence "of Health and Human Services, the Secretary of Education"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof "of Health and Human Services, the Department of Education".

(j) The Defense Dependents' Education Act of 1978 is amended—

92 Stat. 2369. 20 USC 928. (1) in section 1410(a)(1), by striking out "representatives of sponsors" and inserting in lieu thereof "parents";

(2) in section 1410(b), by striking out "Secretary of Defense" and inserting in lieu thereof "Secretary of Education, in consultation with the Secretary of Defense,";

92 Stat. 2370. 20 USC 929. (3) in section 1411(a), by striking out "Department of Defense" and inserting in lieu thereof "Department of Education";

92 Stat. 2370. 20 USC 929. (4) in section 1411(a)(1), by striking out everything after "Logistics" and inserting in lieu thereof ", and the Administrator of Education for Overseas Dependents of such department, who shall be co-chairman of the Council;";

(5) in section 1411(a), by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of Education and of the Secretary of Defense.";

(6) in section 1411(b)(1), by striking out "Assistant Secretary" and inserting in lieu thereof "Secretary of Education";

(7) in section 1411(c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,"; and

(8) in section 1411(c)(5) (as so redesignated), by striking out "Assistant Secretary" and inserting in lieu thereof "Secretary of Education".

92 Stat. 2153. 20 USC 2711. (k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

92 Stat. 2218. 20 USC 3012. (l)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

20 USC 2390. (2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

20 USC 1102. (3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

20 USC 1102 note. (4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a), be deemed to be permanent positions transferred pursuant to title V of this Act.

92 Stat. 2965. 29 USC 761b. (m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

92 Stat. 2983. 29 USC 794c. (2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

(n) The Inspector General Act of 1978 is amended—

92 Stat. 1101. 5 USC app. (1) in section 2(1), by inserting "the Department of Education," immediately after "Commerce,";

92 Stat. 1107. 5 USC app. (2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) in section 11(1), by inserting "Education," immediately after "Commerce,"; 92 Stat. 1109. 5 USC app.

(4) in section 11(2), by inserting "Education," immediately after "Commerce,"; and

(5) by amending the title to read as follows: "An Act to establish Offices of Inspector General within various departments and agencies, and for other purposes.".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services. Department of Health and Human Services. 20 USC 3508.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this Act.

COORDINATION OF PROGRAMS AFFECTING HANDICAPPED INDIVIDUALS

SEC. 510. The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education. 20 USC 3509.

TRANSITION

SEC. 511. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act. 20 USC 3510.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Publication in Federal Register. 20 USC 3401 note.

SEC. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979—

(1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title; and

Regulations.

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

20 USC 3401 note.

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

Approved October 17, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-143 accompanying H.R. 2444 (Comm. on Government Operations) and No. 96-459 (Comm. of Conference).
SENATE REPORTS: No. 96-49 (Comm. on Governmental Affairs) and No. 96-326 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 125 (1979):
  Apr. 5, 10, 26, 30, considered and passed Senate.
  June 7, 11-13, 19, July 11, H.R. 2444, considered and passed House; passage vacated and S. 210, amended, passed in lieu.
  Sept. 24, Senate agreed to conference report.
  Sept. 27, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 15, No. 42:
  Oct. 17, Presidential statement.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

Vol. 123 WASHINGTON, MONDAY, MARCH 14, 1977 *No. 44*

Senate

(Legislative day of Monday, February 21, 1977)

By Mr. RIBICOFF (for himself, Mr. MAGNUSON, Mr. HUMPHREY, Mr. PELL, Mr. NUNN, Mr. ALLEN, Mr. BARTLETT, Mr. BAYH, Mr. BELLMON, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DECONCINI, Mr. DOMENICI, Mr. EAGLETON, Mr. FORD, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. MATSUNAGA, Mr. MCGOVERN, Mr. MELCHER, Mr. PEARSON, Mr. RANDOLPH, Mr. SASSER, Mr. SPARKMAN, Mr. STAFFORD, Mr. STONE, Mr. WEICKER, Mr. WILLIAMS, Mr. HART, and Mr. MUSKIE):

S. 991. A bill to establish a Department of Education, and for other purposes; to the Committee on Governmental Affairs.

uates. In one of our major universities, nearly half of the freshman class was required to take remedial courses in English. Surely, we must make education a long-overdue national priority.

Why is a separate Department of Education needed? Leadership to handle the vast range of educational issues and programs is almost impossible within the Department of Health, Education, and Welfare because of its immense size. This Department consists of a vast and diffuse range of responsibilities, agencies, and programs—all competing for attention. HEW's total spending for over 300 programs was $128 billion in 1976, in 1977 it is approximately $146 billion and the spendng for 1978 is expected to be $162 billion. This is an increase of $34 billion over a 2-year period and an annual aver-

the new Department of Education are presently in HEW, other education programs are fragmented and dispersed throughout more than 20 Federal agencies. No mechanism presently exists to coordinate these numerous programs in a sensible, workable and effective framework. By removing education functions out of HEW, education, health, and welfare will be more manageable to meet the many demands of our most needy citizens, and an effective reorganization of all three areas can more rapidly and more efficiently occur.

I am aware that Secretary of HEW Califano has announced a series of reorganization initiatives to improve HEW's manageability, and I commend him. But the need for a new Department of Education is still essential.

DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, I am pleased to introduce along with Senators MAGNUSON, HUMPHREY, PELL, and NUNN and 28 of my distinguished colleagues, a bill to establish a separate Department of Education.

I first introduced a bill to establish a Department of Education in the 89th Congress. Today, such a Department is even more needed.

American education has grown rapidly. The needs and demands placed on education have greatly increased. Thirty years ago, fewer than half of American students finished high school. By 1974, the average school years attended was 12¼. Enrollment of blacks has increased by more than 200 percent in the past 8 years. The Office of Education expects women to receive almost half the college degrees awarded by 1978. Education is now becoming a lifelong process. Today, well over 60 million persons are enrolled in public and private education institutions from kindergarten through graduate school. That is almost one out of every three citizens.

Education is not given the priority attention it needs. We cannot help but become more aware that problems with our education system are worsening. In March of 1976, the Office of Education released a study showing a 10-year decline in reading skills among American students. In November 1975, the college entrance examination board reported that 1975 scores on the scholastic aptitude test showed the biggest drop in 20 years. College educators are more and more concerned about the low reading and writing ability of high school grad-

age increase of over 15 percent. A large portion of this continued increase is caused by increased needs for social security and medicare.

The budget for Health and Welfare is 18 times as large as the $9.1 billion budget of the Education Division. Yet, the Education Division itself is enough to constitute a major department. Its budget alone is more than that of the Departments of the Interior, $5.5 billion; Commerce, $6.7 billion; Justice, $2.3 billion, and State, $1.2 billion. Its Office of Education administers 136 education programs. The proposed new Department of Energy is expected to cost $10 billion, just $1 billion more than the Education Division in HEW.

The unmanageability of this Department is widely known. Last year, the Governmental Affairs Committee reported a measure to establish an Office of Inspector General in HEW. Findings by the House Governmental Affairs Committee found that the magnitude and complexity of HEW's activities—including the administration of more than 300 separate programs involving expenditures over $118 billion—caused, in many instances, a lack of direct control over its expenditures, including evidence of fraud and abuse. Hearings by several subcommittees of the Governmental Affairs Committee have also outlined numerous examples of HEW mismanagement.

Education can never be a major priority in such a large Department. Uncontrollable programs will continue to grow and education will continue to be enmeshed and entangled with other priorities.

Although most of the components for

Size, budget, and management considerations are good reasons alone to justify the creation of a new department. But these reasons are only the bureaucratic side of the picture.

American education needs a unified direction. It needs a full-time Secretary of Education who can devote all his or her enthusiasm, imagination, time and capability to strengthening American education.

No Secretary of such a large Department as HEW can adequately devote the time for the national education leadership needed. No Secretary of such a large department can give education the priority it should have.

This bill would address itself to the effective administration of our educational programs. The Secretary of Education would advise the President on goals and priorities. The Secretary would develop policies and programs to foster development of educational facilities and resources; exercise leadership in coordinating Federal activities affecting education; and provide leadership by conducting studies, making recommendations and administering discretionary programs to facilitate the continuing development of American education. Also, comprehensive planning by State and local governments would be encouraged.

Under the Secretary of Education, there would be an Under Secretary, a General Counsel, an Inspector General, and four Assistant Secretaries—for Legislation and Public Affairs, Intergovernmental Relations, Evaluation and Planning, and Administration and Management. Each officer would be subject to Senate confirmation.

The act would transfer HEW's Education Division, the Headstart program in the Office of Child Development, the Education Directorate of the National Science Foundation, the Armed Forces dependents schools, and jurisdiction over the National School Lunch Act, BIA Indian Schools, HUD college housing loans, and HEW's grant programs for the construction of public broadcasting facilities. Functions carried out by the Secretary through the Office of Civil Rights concerning the enforcement of those laws and education orders which apply to educational institutions, educational financial assistance and Federal contracts in education would be transferred.

The bill would also transfer the National Foundation on the Arts and Humanities which is actively involved in promoting the cultural aspects of education. The National Endownments within the Foundation would retain their present structure under the bill and their inclusion would clearly lend itself to a broader view of education.

Other components of the bill would include a Federal Interagency Committee on Education, a National Advisory Committee on Education, and an Office of Inspector General.

The Federal Interagency Committee on Education would be chaired by the Secretary of Education. The committee would be composed of various representatives from other departments and agencies. Its main purpose would be to assure effective coordination of Federal programs affecting education. The committee would meet six times a year and report annually to the Secretary;

If there is one point on which most Americans will agree, it is that the U.S. Department of Health, Education, and Welfare is too large and too bureaucratic to effectively or efficiently manage the numerous programs under its jurisdiction. This Department is currently charged with the task of administering vast programs designed to provide for the health needs of our citizens, to provide assistance to the elderly, the handicapped and the underprivileged, and to help the States provide quality education for every American. One of the biggest tasks facing President Carter and the Congress should be to restructure and reform this massive and cumbersome department.

The establishment of a separate Department of Education, which would be accomplished by the passage of the bill we are introducing today, is the first logical step toward achieving the goal of reorganization of HEW. At the present time, most of the Federal educational programs are administered by the U.S. Office of Education which is a relatively small subdivision of HEW. Yet, this Office of Education is alone responsible for approximately 120 programs. Its fiscal year 1976 budget was $7.4 billion which is larger than the combined budgets of the Departments of Commerce, Interior, Justice, and State.

For too long, our educational programs have failed to receive the attention and status that their importance demands. The lack of singular leadership in the educational field has also contributed to the lack of a coherent and effective Federal education policy. Education needs and deserves a single goals are important ones and we cannot gamble with their success. A single Department administered by a single Secretary is the best way of reaching these goals and of guaranteeing that our educational dollars are efficiently and economically spent in this process. The establishment of a Department of Education would represent a giant step toward the genuine reform needed in our educational programs.

S. 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Act of 1977".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that—

(1) education is of fundamental importance to the Nation and it is appropriate to reassess the condition of education in our Nation to insure that all Americans have an equal opportunity for quality education;

(2) existing Federal programs in support of education are fragmented and often duplicative and should be better coordinated in order to promote quality education;

(3) the role and importance of education increases as our society becomes more complex and new technologies and advancements are developed to meet changing needs;

(4) public policy toward education is vital to the present and long-range interests of the United States;

(5) education must be broadly conceived in terms of all those forces, institutions, and agencies which function as educating influences in the United States; goals, and institutions should be enhanced; and

(7) it is essential therefore to establish a Department of Education to provide Federal leadership, to insure effective enforcement of equal opportunity legislation in educa-

The National Advisory Commission on Education would be composed of 15 members, appointed by the President, who have demonstrated commitment to the educational needs of the Nation. Its purpose would be to assist the Secretary in the formulation of Federal policy with respect to the appropriate role of the Government in education and to review the administration, regulations for, and operation of Federal education programs;

The Inspector General whose functions would be similar to those of the present Inspector General in HEW, would provide and supervise policy direction for auditing and investigative activities in the Department. Other duties would include conducting activities to promote economy and efficiency while preventing and detecting fraud and abuse in education programs. The Inspector General could be removed only by the President.

Hearings have never been held on a proposed Department of Education, and it is my hope that the various components of the bill, including the proposed transfers, would be thoroughly discussed.

I urge my colleagues in Congress to join us in sponsoring this legislation. The time is long overdue for a cabinet Department of Education to coordinate education programs, eliminate duplication and waste, and strengthen and improve American education.

Mr. NUNN. Mr. President, I am pleased to join Senators RIBICOFF, MAGNUSON, HUMPHREY, PELL, and others in introducing legislation to create a separate Department of Education to administer and oversee all educational programs and policies for the Federal Government. We need a spokesman who can articulate educational priorities, plans, and programs at the highest levels of Government.

The bill that we are introducing today will provide a more efficient and administratively manageable structure for education by removing the Office of Education from the existing Department of Health, Education, and Welfare. It will also consolidate education programs, which are currently fragmented throughout the Federal Government, under the new Department of Education. This consolidation should insure that duplication of programs and needless waste of money is avoided.

This bill also creates an independent Office of Inspector General in the new Department to prevent fraud and abuse in education programs. During the 94th Congress, legislation was signed into law to establish an Office of Inspector General in HEW. It is certainly important that a single person in the new Department of Education be responsible for fraud detection and for insuring that the taxpayers' funds appropriated for educational programs are not wasted because of inefficiency and abuse.

The creation of a separate Department of Education would not only enhance our educational policies but would also give new prominence to our health and welfare programs. The Secretary of Health and Welfare could devote his full time and efforts to meeting the pressing health needs of our citizens and to cleaning up the management of our welfare programs.

Investment in education is investment in the future productivity of our Nation through the advancement of skills of the workers of tomorrow. Our educational tion, to weigh and consider major educational policy issues confronting the Nation, and to facilitate a continuing renewal of the educating institutions and policies of the United States.

DEPARTMENT OF EDUCATION ESTABLISHED

SEC. 3. There is established an executive department which shall be known as the Department of Education (hereinafter referred to as the "Department").

OFFICERS

SEC. 4. (a) The Department shall be administered by a Secretary of Education (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level I of the Federal Executive Salary Schedule under section 5312 of title 5, United States Code. The Department shall be administered under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary of Education who shall be appointed by the President by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall receive compensation at the rate prescribed for level III of the Federal Executive Salary Schedule established under section 5314 of title 5, United States Code.

(c) There shall be in the Department a General Counsel and four Assistant Secretaries of Education as follows:

1. Assistant Secretary of Education for Legislative and Public Affairs;

2. Assistant Secretary of Education for Administrative and Management Policy;

3. Assistant Secretary of Education for Evaluation and Planning; and

4. Assistant Secretary of Education for Intergovernmental Relations.

Each of such Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability, or in the event of a vacancy in the office of the Secretary or of the Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe shall act as Secretary. Each Assistant Secretary and the General Counsel shall receive compensation at the rate prescribed for level IV under section 5315 of title 5, United States Code.

POWERS AND DUTIES OF THE SECRETARY

SEC. 5. (a) The Secretary shall be responsible for the exercise of all functions of the Department, and shall have authority to direct and supervise all personnel and activities thereof.

(b)(1) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions, as may be necessary to carry out the purposes and functions of this Act.

(2) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(c) The Secretary may promulgate such rules and regulations as may be necessary to carry out the functions vested in the Secretary or in the Department, and may delegate authority for the performance of any such function to any officer or employee under the Secretary's direction and supervision.

(d) The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

FUNCTIONS OF THE DEPARTMENT

SEC. 6. (a) It is the principal function of the Department to promote the cause and advancement of education throughout the United States.

(b) In addition to any other function of the Secretary under the provisions of this Act, the Secretary is authorized to—

giving advice to and making recommendations which concern education primarily;

(4) under section 394 of the Communications Act of 1934; relating to Federal grants for the construction of television and radio broadcasting facilities to be used for educational purposes;

(5) with respect to and being administered by the Secretary through the Office of Civil Rights for the enforcement of those provisions of law and Education Orders which apply to educational institutions, including Title VI (insofar as it relates to educational financial assistance) and Titles VII and IX of the Education Amendments of 1972 and Executive Order 11246 (insofar as it pertains to employer's holding Federal contracts in education.)

(6) with respect to all functions of the National Foundation on the Arts and the Humanities including all functions of the National Endowment for the Arts and all functions of the National Endowment for the Humanities.

(7) with respect to all Federal laws concerning the relationship between Gallaudet College, Howard University, and American Printing House for the Blind, and the Department of Health, Education, and Welfare;

(8) with respect to the operation of schools for dependents of members of the Armed Forces by the Secretary of Defense;

(9) with respect to the operation of schools for Indian children being administered by the Secretary of the Interior through the Bureau of Indian Affairs;

(10) with respect to the National School Lunch Act and the operation of the Graduate School, being administered by the Secretary of Agriculture;

(11) with respect to Title IV of the Housing Act of 1950 relating to college housing, being administered by the Secretary of Housing and Urban Development; and

(12) with respect to and being administered by the Director of the National Science Foundation, the Education Directorate.

(b) In any case where all of the functions of any agency or office are transferred pursuant to this Act, except any committee

PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

SEC. 10. Except to the extent inconsistent with this Act, all provisions of law applicable to the executive departments generally shall apply to the Department.

REDESIGNATION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 11. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare and the Secretary of Health and Welfare, respectively.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 12. (a) There is hereby established a "Federal Interagency Committee on Education" (hereinafter referred to in this Act as the "Committee").

(b) The Committee shall study and make such recommendations as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal program in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Federal agencies to avoid unnecessary duplication of activities with respect to education;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary;

(5) recommendations for the improvement of federal programs for the purpose of aid-

(1) advise the President with respect to the progress of education, including the recommendation of long-range goals and priorities;

(2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the educational facilities and resources of the United States especially in the light of long-range requirements;

(3) exercise leadership at the direction of the President in coordinating Federal activities affecting education;

(4) conduct continuing comprehensive surveys, and to collect, analyze, and disseminate relevant information, data and statistics, concerning education in the United States;

(5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school, college, and university or other education systems;

(6) encourage comprehensive planning by State and local governments, especially with respect to coordinating Federal, State, and community educational activities at the local level; and

(7) provide leadership by conducting studies, making recommendations, and administering discretionary programs to facilitate the continuing development of the American educational system.

TRANSFER OF FUNCTIONS AND AGENCIES

SEC. 7. (a) There are transferred to the Secretary, all functions of the Secretary of Health, Education, and Welfare or the Commissioner of Education, as the case may be—

(1) with respect to and being administered by the Secretary through the Education Division of the Department of Health, Education, and Welfare;

(2) with respect to and being administered by the Secretary through the Office of Child Development of the Department of Health, Education, and Welfare regarding Headstart;

(3) any advisory committee in the Department of Health, Education, and Welfare

transferred under subsection (a)(3) of this section, such agency or office shall lapse.

(c) All officers, employees, assets, liabilities, contracts, records, property, leases, obligations, and commitments and unexpended balances of appropriations, allocations, and other funds which the Director of the Office of Management and Budget determines are to be employed, held, or used primarily in connection with any office, agency, bureau, foundation, or function transferred under the provisions of this Act, are hereby transferred to the Department.

ADDITIONAL TRANSFERS

SEC. 8. The President is authorized to transfer to the Department of Education any other agency or instrumentality of the Federal Government which the President determines has functions relating to education and should be transferred to the Department of Education to promote efficiency in Government and to carry out the purposes of this Act. Such transfers shall incorporate, to the extent deemed desirable, the recommendations of the Federal Interagency Committee on Education as provided by section 12(c) and shall be completed within one hundred and eighty days after the date of enactment of this Act. A report describing such transfers shall be submitted to the Congress not later than thirty days thereafter.

TRANSFERRED PERSONNEL

SEC. 9. Each officer or employee of the United States or any department or agency thereof who is transferred at any time to the Department of Education shall be deemed, effective as of the date of such transfer, to be an officer or employee of the Department. No reappointment of any such officer or employee shall be required because of his transfer to that Department. Except as otherwise specifically provided by this section, no such officer or employee shall be reduced in rank, grade, seniority, or rate of compensation because of any such transfer.

ing students in their transition from school to work; and

(6) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall, within 90 days of the enactment of this Act or the appointment and qualification of all Committee members, whichever is earlier, recommend to the President the transfer of such additional responsibilities as may be appropriate.

(d) The Committee shall be composed of the Secretary, who shall be the Chairperson, and one appropriate representative of each of the following agencies: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Health and Welfare (as redesignated by section 11 of this Act), the Department of Housing and Urban Development, the National Sicence Foundation, and the National Aeronautics and Space Administration. The Committe shall also include the Chairpersons of the National Endowment for the Arts, and the National Endowment for the Humanities of the Department.

(e) The Chairperson may invite Federal agencies, in addition to the agencies which are represented on the Committee under the provisions of subsection (d) of this section, to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(f) The Director of the Office of Management and Budget, the Chairperson of the Council of Economic Advisers, and the Executive Director of the Domestic Council may each designate a staff member to attend meetings of the Committee as observers.

(g) The Committee shall meet at last six times in each year and shall prepare an annual report to the Secretary concerning its recommendations.

(h) Each Federal agency which is represented on the Committee under the provisions of subsection (d) of this section, shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (31 U.S.C. 691).

NATIONAL ADVISORY COMMISSION ON EDUCATION

Sec. 13. (a) There is established a National Advisory Commission on Education (hereinafter referred to as the "National Commission") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate, from among individuals—

(1) who have a demonstrated commitment, in public or private industries or organizations, for the enhancement and development of the educational needs and goals of the Nation;

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals; and

(3) who are experienced with the policies or administration of State and local educational agencies and of institutions of higher education.

Members shall be appointed for terms of three years, except that (A) in the case of initially appointed members, as designated [illegible] the President, five members shall be ap[illegible]nted for terms of one year, five members shall be appointed for terms of two years, and five members shall be appointed for terms of three years, and (B) any member appointed to fill a vacancy shall serve the remainder of the term for which the member's predecessor was appointed.

(b) The National Commission shall—

(1) assist the Secretary in the formulation of Federal policy with respect to the appropriate role of the Federal Government in each action;

(2) review the administration of, general regulations for, and operation of Federal education programs;

(3) advise the Secretary and other Federal officials with respect to the educational

deems appropriate, to the President and to the Congress, concerning its findings, recommendations, and activities.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 448 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Educational Research, and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its functions under this subsection.

(e) The National Commission is authorized to procure such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS-18 under section 3332 of title 5, United States Code, including traveltime, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by sec-

(f) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(g) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigate activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (i) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(h) In carrying out the responsibilities specified in subsection (g)(1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the needs and goals of the Nation and assess the progress of the renewal of appropriate agencies, institutions, and organizations of the Nation in order to meet those needs and achieve those goals;

(4) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(5) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(6) consult with Federal, State, and local and other education agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education, national goals, and changing education priorities, and the means by which those areas may be met, developed, and achieved;

(B) specific means of improving the quality and effectiveness of teaching, curriculums, and educational media and of raising standards of scholarship and levels of achievement;

(7) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education-related organizations, institutions, and persons (including parents of children participating in Federal educational assistance programs) may exchange and disseminate information on the improvement of education;

(8) conduct, and report on, comparative studies and evaluations of education systems in foreign countries; and

(9) advise and assist in the coordination of all Federal educational advisory committees, councils or commissions.

(e) The National Commission shall make an annual report, and such other reports as it tion 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) The President shall nominate members to the National Commission not later than thirty days after the date of enactment of this Act.

OFFICE OF THE INSPECTOR GENERAL

SEC. 14. (a) As used in this section—

(1) the term "Inspector General" means the Inspector General of the Department;

(2) the term "Deputy" means the Deputy Inspector General of the Department; and

(3) the term "Federal agency" means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

(b) There is hereby established in the Department an Office of Inspector General.

(c) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(d) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(e) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

competence and independence of such auditors.

(i) In carrying out the duties and responsibilities provided by this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(j) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(k) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(l) The Inspector General shall report immediately to the Secretary and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant

Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(m) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(n) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (j) and (k) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(o) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which related to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in requested under subsection (o)(1) or (o)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (o)(1) or (o)(2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(q) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(r)(1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

(s) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of the Office of Inspector General in the Department of Health, Education, and Welfare established under title II of the Act entitled "An Act to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation," approved October 18, 1976 (90 Stat. 2429) which the Director of the Office of Management and Budget determines to be principally involved in education.

effect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department of Education. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Education, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in the officer's official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in the officer's official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department of Education as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this section, the Inspector General shall so inform the Congress without delay;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(p)(1) Upon request of the Inspector General for information or assistance under subsection (o)(2), the head of any Federal agency involved shall, insofar as is practicable, and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance

(t) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (s) are hereby transferred to the Office of Inspector General.

(u) Personnel transferred pursuant to subsection (t) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(v) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this section, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

SAVING PROVISIONS

Sec. 15. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Education by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not effect to the provisions of this subsection.

(2) If, before the date on which this Act takes effect, any agency or office, or officer thereof in the officer's official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Secretary of Education,

(B) any function of such agency, office, or part thereof; or officer is transferred to the Secretary of Education,

then such suit shall be continued by the Secretary of Education (except in the case of a suit not involving functions transferred to the Secretary of Education in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the department or officer in which such function is vested pursuant to this Act.

(e) Orders and actions of the Secretary of Education in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and the Secretary's actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

(g) The Secretary, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred in this Act to the Secretary may delegate any of such functions to such officers and employees of the Department, as the Secretary may designate, may authorize such successive redelegations of such functions as the Secretary may deem appropriate and may make such rules and regulations as may be necessary to carry out functions of the Secretary.

ADMINISTRATIVE PROVISIONS

SEC. 16. (a) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency in the Department including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States shall be disbursed upon order of the Secretary.

(d) Nothing contained in this section is intended to amend, modify, or repeal any provisions of law administered by the Department of Health, Education, and Welfare which authorize the making of contracts for research.

ANNUAL REPORT

SEC. 17. The Secretary shall, as soon as practicable after the end of each fiscal year, prepare a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Each such report shall also contain objective data regarding changing trends in education, including enrollments, expenditures, numbers of teachers and other categories of professional and related personnel; special needs of critical concern such as the disadvantaged, rural, and urban education, and progress made toward the continuing renewal of education; the results and outcomes of education and schooling, including the overall results on generally recognized standard examinations for entrance to undergraduate and graduate institutions; budget projections for five years based on actual or anticipated appropriations for the fiscal year in which the annual report is issued; recommendations as to the improvement of programs for the handicapped and recommendations with respect to the advisory structure of the Department, including the names and composition of advisory committees and councils and the relationships the committees and councils bear to one another and recommendations as to the elimination of overlapping advisory committees and similar data.

CONFORMING AMENDMENTS

SEC. 18. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health, Education, and Welfare"; and

(2) by inserting before the period at the end thereof a comma and the following: "Secretary of Health and Welfare, Secretary of Education".

for Legislative and Public Affairs.

"(115) Assistant Secretary of Education for Administrative and Management Policy.

"(116) Assistant Secretary of Education for Evaluation and Planning.

"(117) Assistant Secretary of Education for Intergovernmental Relations.

"(118) General Counsel, Department of Education.

"(119) Inspector General, Department of Education.".

EXPENDITURES AUTHORIZED

SEC. 19. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

APPROPRIATIONS AUTHORIZED

SEC. 20. There are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this Act and to perform any other duties which may be imposed upon it by law.

EFFECTIVE DATE

SEC. 21. The provisions of this Act shall be effective on its date of enactment.

S. 991—A DEPARTMENT OF EDUCATION

3-15-77

Mr. WILLIAMS. Mr. President, I am pleased to join with my colleagues in introducing a bill which will create a Cabinet-level Department of Education. This bill, the Department of Education Act of 1977, makes good on our promise that the education of our people will become a critical priority of our Nation. By bringing all educational programs together under one Department with Cabinet status, this proposal brings our commitment to quality education, equal op-

Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses) considered above the amounts transferred or appropriated to establish and maintain such fund.

(b) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) motion picture equipment and film for recreation and training; and

(4) living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(c)(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary.

(2) Upon the request of the Secretary the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any monies contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare." and inserting "Health and Welfare."; and

(2) by adding at the end thereof: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended—

(1) by striking out

"(10) Secretary of Health, Education, and Welfare."

and inserting in lieu thereof

"(10) Secretary of Health and Welfare.";

(2) by striking out "(13)" and inserting in lieu thereof "(14)"; and

(3) by inserting immediately after

"(12) Secretary of Transportation."

the following:

"(13) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended—

(1) by striking out

"(6) Under Secretary of Health, Education, and Welfare."

and inserting in lieu thereof:

"(6) Under Secretary of Health and Welfare.";

and

(2) by adding at the end thereof the following:

"(62) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Assistant Secretaries of Health, Education, and Welfare (5)" and inserting in lieu thereof the following: "Assistant Secretaries of Health and Welfare (4)";

(2) by striking out "General Counsel of the Department of Health, Education, and Welfare." and inserting in lieu thereof the following: "General Counsel of the Department of Health and Welfare."; and

(3) by adding at the end thereof the following:

"(114) Assistant Secretary of Education

portunity, and an enlightened citizenry to the center of policymaking at the Federal level.

Specifically, this act would transfer HEW's Education Division, including the 138 education programs within the Office of Education, the Head Start program in the Office of Child Development, the Education Directorate of the National Science Foundation, the Armed Forces dependents' schools, and jurisdiction over the National School Lunch Act, BIA Indian Schools, HUD college housing loans, and HEW's grant programs for the construction of public broadcasting facilities to the new Department.

It would also transfer the National Foundation on the Arts and Humanities which is actively involved in promoting the cultural aspects of education. The National Endowments within the Foundation would retain their present structure under the bill and their inclusion would clearly lend itself to a broader view of education.

The future of American education and our national educational policy rests, I believe, on our continuing and informed discussion of ways to improve the education of our children and to allow people of all ages to take advantage of various learning experiences.

Over the last several years, Federal education policy has taken major steps toward those goals.

Certainly, enactment of the Education for All Handicapped Children Act, which I authored, provided new hope and new direction for handicapped children and their families. That law signaled the Federal Government's concern and insistence that these children be assured their right to a free public education.

The development of the basic educational opportunity grant, the Bilingual Education Act, a new program for lifelong learning, expanded programs for continuing education, and better coordination in vocational education are also important steps in this direction.

Yet, today, the Federal contribution to elementary, secondary, and higher education is just over 9.8 percent of all expenditures in this area. Given the increasing costs of education and the increasing pressures on State and local tax dollars, this contribution must be seen as a basic minimum.

Yet, we know that these figures represent a decrease from a higher level of 11.9 percent in the late 1960's. In terms of the proportion of the gross national product, expenditures in the education area have remained at just under 8 percent for the last 10 years.

We also know the hard facts in individual programs. For example, in title I, aid to disadvantaged children, our expenditures in dollars of constant value—1965 dollars—were $1.161 billion in fiscal year 1966 compared to only $1.081 billion in fiscal year 1976—a 7-percent reduction. I was very pleased that Secretary Califano has recognized this problem and that the fiscal year 1978 budget reflects increased funding for title I.

The issue, however, is broader than a single program or a single budgetary increase. The question that is raised is the ability of our national education leaders—the Commissioner of Education, the Assistant Secretary and the Director of the National Institute of Education—to provide the Federal advocacy necessary in education when the Education Division is only a part of a department with high budgetary and program responsibilities in other areas. This issue has been raised more clearly over the past few years as HEW's spending has grown to more than $145 billion. Most of this growth is a result of uncontrollable budget items in health and welfare. The Education Division budget of $9 billion is dwarfed in comparision—and in priority in day-to-day management and policymaking.

Clearly, I do not question the necessity of HEW nor the importance of its other programs—many of which also evolve from the committee I chair. My desire is to define a coherent and coordinated policy in education and to increase its visibility and importance in the Cabinet. In saying this, I realize that the creation of a Department of Education does not automatically solve these problems and in many cases raises additional policy issues which will have to be examined.

For example, I am sure that we will want to examine carefully the inclusion of each of the programs which is suggested to be transferred in this bill. Such issues as the location of Head Start and its relationship to other community-based poverty and social service programs needs to be fully explored for this program is not intended to be exclusively a school-based program. Similarly, the proposal to transfer the Office of Civil Rights' education-related enforcement responsibilities also needs to be explored further in light of the importance of these enforcement activities, the need for a consistent policy in all civil rights enforcement, and the impact on enforcement of section 504 of the Rehabilitation Act of 1973, prohibiting discrimination against handicapped individuals.

Furthermore, it should be made absolutely clear, in the course of considering this legislation, that the establishment of a separate Department of Education does not imply any diminution of the role of the Department of Labor in providing skill training, job counseling, work experience and other employment services. A fundamental challenge for the new administration is to develop comprehensive, long-term policies for helping young Americans make the difficult transition from school to work. An associated challenge is to strengthen significantly existing approaches for affording workers of all ages the opportunity for retraining, the means of locating new and better jobs, and the wherewithal to be able to move their homes to communities that need their new skills. If learning is a life-long process, then the transition from classroom to work is a life-long challenge. With or without a separate Federal educational department, the Department of Labor and Federal education officials must be brought into effective coordination of joint efforts to weld together the elements of employment and education policy.

I believe that our highest priorities in education must be to increase opportunity for all of our people, no matter what their age, their socioeconomic background, or their previous schooling and to find new ways to allow personal freedom and dignity in the educational process.

I believe the way to assure that we as a Nation accomplish this goal is by creating a seperate Department of Education. It is for this reason that I lend my full support to this concept and join with my colleagues in introducing the Department of Education Act of 1977. I look forward to the hearings on this issue.

95th CONGRESS
1st Session

S. 991

IN THE SENATE OF THE UNITED STATES

March 14 (legislative day, February 21), 1977

Mr. Ribicoff (for himself, Mr. Magnuson, Mr. Humphrey, Mr. Pell, Mr. Nunn, Mr. Allen, Mr. Bartlett, Mr. Bayh, Mr. Bellmon, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cranston, Mr. DeConcini, Mr. Domenici, Mr. Eagleton, Mr. Ford, Mr. Hart, Mr. Heinz, Mr. Hollings, Mr. Inouye, Mr. Jackson, Mr. Kennedy, Mr. McGovern, Mr. Matsunaga, Mr. Melcher, Mr. Muskie, Mr. Pearson, Mr. Randolph, Mr. Sasser, Mr. Sparkman, Mr. Stafford, Mr. Stone, Mr. Weicker, and Mr. Williams) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Act of 1977".

FINDINGS AND PURPOSES

Sec. 2. The Congress finds that—

(1) education is of fundamental importance to the Nation and it is appropriate to reassess the condition of

education in our Nation to insure that all Americans have an equal opportunity for quality education;

(2) existing Federal programs in support of education are fragmented and often duplicative and should be better coordinated in order to promote quality education;

(3) the role and importance of education increases as our society becomes more complex and new technologies and advancements are developed to meet changing needs;

(4) public policy toward education is vital to the present and long-range interests of the United States;

(5) education must be broadly conceived in terms of all those forces, institutions, and agencies which function as educating influences in the United States; goals and institutions should be enhanced; and

(6) it is essential therefore to establish a Department of Education to provide Federal leadership, to insure effective enforcement of equal opportunity legislation in education, to weigh and consider major educational policy issues confronting the Nation, and to facilitate a continuing renewal of the educating institutions and policies of the United States.

DEPARTMENT OF EDUCATION ESTABLISHED

Sec. 3. There is established an executive department which shall be known as the Department of Education (hereinafter referred to as the "Department").

OFFICERS

SEC. 4. (a) The Department shall be administered by a Secretary of Education (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level I of the Federal Executive Salary Schedule under section 5312 of title 5, United States Code. The Department shall be administered under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary of Education who shall be appointed by the President by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall receive compensation at the rate prescribed for level III of the Federal Executive Salary Schedule established under section 5314 of title 5, United States Code.

(c) There shall be in the Department a General Counsel and four Assistant Secretaries of Education as follows:

(1) Assistant Secretary of Education for Legislative and Public Affairs;

(2) Assistant Secretary of Education for Administrative and Management Policy;

(3) Assistant Secretary of Education for Evaluation and Planning; and

(4) Assistant Secretary of Education for Intergovernmental Relations.

Each of such Assistant Secretaries shall be appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability, or in the event of a vacancy in the office of the Secretary or of the Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe shall act as Secretary. Each Assistant Secretary and the General Counsel shall receive compensation at the rate prescribed for level IV under section 5315 of title 5, United States Code.

POWERS AND DUTIES OF THE SECRETARY

SEC. 5. (a) The Secretary shall be responsible for the exercise of all functions of the Department, and shall have authority to direct and supervise all personnel and activities thereof.

(b) (1) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions, as may be necessary to carry out the purposes and functions of this Act.

(2) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(c) The Secretary may promulgate such rules and regulations as may be necessary to carry out the functions vested in the Secretary or in the Department, and may delegate authority for the performance of any such function to any officer or employee under the Secretary's direction and supervision.

(d) The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

FUNCTIONS OF THE DEPARTMENT

SEC. 6. (a) It is the principal function of the Department to promote the cause and advancement of education throughout the United States.

(b) In addition to any other function of the Secretary under the provisions of this Act, the Secretary is authorized to—

(1) advise the President with respect to the progress of education, including the recommendation of long-range goals and priorities;

(2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the educational facilities and resources of the United States especially in the light of long-range requirements;

(3) exercise leadership at the direction of the President in coordinating Federal activities affecting education;

(4) conduct continuing comprehensive surveys, and to collect, analyze, and disseminate relevant information, data, and statistics, concerning education in the United States;

(5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school, college, and university or other education systems;

(6) encourage comprehensive planning by State and local governments, especially with respect to coordinating Federal, State, and community educational activities at the local level; and

(7) provide leadership by conducting studies, making recommendations, and administering discretionary programs to facilitate the continuing development of the American educational system.

TRANSFER OF FUNCTIONS AND AGENCIES

SEC. 7. (a) There are transferred to the Secretary, all functions of the Secretary of Health, Education, and Welfare or the Commissioner of Education, as the case may be—

(1) with respect to and being administered by the Secretary through the Education Division of the Department of Health, Education, and Welfare;

(2) with respect to and being administered by the Secretary through the Office of Child Development of the Department of Health, Education, and Welfare regarding Headstart;

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice to and making recommendations which concern education primarily;

(4) under section 394 of the Communications Act of 1934; relating to Federal grants for the construction of television and radio broadcasting facilities to be used for educational purposes;

(5) with respect to and being administered by the Secretary through the Office of Civil Rights for the enforcement of those provisions of law and education orders which apply to educational institutions, including title VI (insofar as it relates to educational financial

assistance) and titles VII and IX of the Education Amendments of 1972 and Executive Order 11246 (insofar as it pertains to employer's holding Federal contracts in education);

(6) with respect to all functions of the National Foundation on the Arts and the Humanities including all functions of the National Endowment for the Arts and all functions of the National Endowment for the Humanities;

(7) with respect to all Federal laws concerning the relationship between Gallaudet College, Howard University, and American Printing House for the Blind, and the Department of Health, Education, and Welfare;

(8) with respect to the operation of schools for dependents of members of the Armed Forces by the Secretary of Defense;

(9) with respect to the operation of schools for Indian children being administered by the Secretary of the Interior through the Bureau of Indian Affairs;

(10) with respect to the National School Lunch Act, and the operation of the Graduate School, being administered by the Secretary of Agriculture;

(11) with respect to title IV of the Housing Act of 1950 relating to college housing, being administered by the Secretary of Housing and Urban Development; and

(12) with respect to and being administered by the Director of the National Science Foundation, the Education Directorate.

(b) In any case where all of the functions of any agency or office are transferred pursuant to this Act, except any committee transferred under subsection (a) (3) of this section, such agency or office shall lapse.

(c) All officers, employees, assets, liabilities, contracts, records, property, leases, obligations, and commitments and unexpended balances of appropriations, allocations, and other funds which the Director of the Office of Management and Budget determines are to be employed, held, or used primarily in connection with any office, agency, bureau, foundation, or function transferred under the provisions of this Act, are hereby transferred to the Department.

ADDITIONAL TRANSFERS

SEC. 8. The President is authorized to transfer to the Department of Education any other agency or instrumentality of the Federal Government which the President determines has functions relating to education and should be transferred to the Department of Education to promote efficiency in Government and to carry out the purposes of this Act. Such transfers shall incorporate, to the extent deemed desirable, the recommendations of the Federal Interagency Committee on Education as provided by section 12 (c) and shall be completed within one hundred and eighty days after the date of enactment of this Act. A report describing such transfers shall be submitted to the Congress not later than thirty days thereafter.

TRANSFERRED PERSONNEL

SEC. 9. Each officer or employee of the United States or any department or agency thereof who is transferred at any time to the Department of Education shall be deemed, effective as of the date of such transfer, to be an officer or employee of the Department. No reappointment of any such officer or employee shall be required because of his transfer to that Department. Except as otherwise specifically provided by this section, no such officer or employee shall be reduced in rank, grade, seniority, or rate of compensation because of any such transfer.

PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

SEC. 10. Except to the extent inconsistent with this Act, all provisions of law applicable to the executive departments generally shall apply to the Department.

REDESIGNATION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 11. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare and the Secretary of Health and Welfare, respectively.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 12. (a) There is hereby established a Federal Interagency Committee on Education (hereinafter referred to in this Act as the "Committee").

(b) The Committee shall study and make such recommendations as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal programs in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Fed-

eral agencies to avoid unnecessary duplication of activities with respect to education;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary;

(5) recommendations for the improvement of Federal programs for the purpose of aiding students in their transition from school to work; and

(6) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall, within 90 days of the enactment of this Act or the appointment and qualification of all Committee members, whichever is earlier, recommend to the President the transfer of such additional responsibilities as may be appropriate.

(d) The Committee shall be composed of the Secretary, who shall be the Chairperson, and one appropriate representative of each of the following agencies: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Health and Welfare (as redesignated by section 11 of this Act), the Department of Housing and Urban Development, the National Science Foundation, the National Aeronautics and Space Administration. The

Committee shall also include the Chairpersons of the National Endowment for the Arts, and the National Endowment for the Humanities of the Department.

(e) The Chairperson may invite Federal agencies, in addition to the agencies which are represented on the Committee under the provisions of subsection (d) of this section, to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(f) The Director of the Office of Management and Budget, the Chairperson of the Council of Economic Advisers, and the Executive Director of the Domestic Council may each designate a staff member to attend meetings of the Committee as observers.

(g) The Committee shall meet at least six times in each year and shall prepare an annual report to the Secretary concerning its recommendations.

(h) Each Federal agency which is represented on the Committee under the provisions of subsection (d) of this section shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (31 U.S.C. 691).

NATIONAL ADVISORY COMMISSION ON EDUCATION

SEC. 13. (a) There is established a National Advisory Commission on Education (hereinafter referred to as the

"National Commission") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate, from among individuals—

(1) who have a demonstrated commitment, in public or private industries or organizations, for the enhancement and development of the educational needs and goals of the Nation;

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals; and

(3) who are experienced with the policies or administration of State and local educational agencies and of institutions of higher education.

Members shall be appointed for terms of three years, except that (A) in the case of initially appointed members, as designated by the President, five members shall be appointed for terms of one year, five members shall be appointed for terms of two years, and five members shall be appointed for terms of three years, and (B) any member appointed to fill a vacancy shall serve the remainder of the term for which the member's predecessor was appointed.

(b) The National Commission shall—

(1) assist the Secretary in the formulation of Federal policy with respect to the appropriate role of the Federal Government in each action;

(2) review the administration of, general regulations for, and operation of Federal education programs;

(3) advise the Secretary and other Federal officials with respects to the educational needs and goals of the Nation and assess the progress of the renewal of appropriate agencies, institutions, and organizations of the Nation in order to meet those needs and achieve those goals;

(4) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(5) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(6) consult with Federal, State, and local and other education agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education, national goals, and changing education priorities, and the means by which those areas may be met, developed, and achieved;

(B) specific means of improving the quality

and effectiveness of teaching, curriculums, and educational media and of raising standards of scholarship and levels of achievement;

(7) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education-related organizations, institutions, and persons (including parents of children participating in Federal educational assistance programs) may exchange and disseminate information on the improvement of education;

(8) conduct, and report on, comparative studies and evaluations of education systems in foreign countries; and

(9) advise and assist in the coordination of all Federal educational advisory committees, councils or commissions.

(c) The National Commission shall make an annual report, and such other reports as it deems appropriate, to the President and to the Congress, concerning its findings, recommendations, and activities.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section

448 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Education Professions Development, the National Council on Educational Research, and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its functions under this subsection.

(e) The National Commission is authorized to procure such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of

the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS-18 under section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) The President shall nominate members to the National Commission not later than thirty days after the date of enactment of this Act.

OFFICE OF THE INSPECTOR GENERAL

SEC. 14. (a) As used in this section—

(1) the term "Inspector General" means the Inspector General of the Department;

(2) the term "Deputy" means the Deputy Inspector General of the Department; and

(3) the term "Federal agency" means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

(b) There is hereby established in the Department an Office of Inspector General.

(c) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(d) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(e) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(f) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(g) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between, the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports re-

quired by subsection (i) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(h) In carrying out the responsibilities specified in subsection (g)(1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

(i) In carrying out the duties and responsibilities provided by this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(j) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(k) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(l) The Inspector General shall report immediately to the Secretary and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(m) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(n) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (j) and (k) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(o) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance

of the functions mandated by this section, the Inspector General shall so inform the Congress without delay;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(p) (1) Upon request of the Inspector General for information or assistance under subsection (o) (2), the head of any Federal agency involved shall, insofar as is practicable,

and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (o) (1) or (o) (2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (o) (1) or (o) (2) is not considered to be available under the provisions of section 552a (b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(q) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(r)(1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

(s) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of the Office of Inspector General in the Department of Health, Education, and Welfare established under title II of the Act entitled "An Act to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation," approved October 15, 1976 (90 Stat. 2429) which the Director of the Office of Management and Budget determines to be principally involved in education.

(t) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of

which are transferred under subsection (s) are hereby transferred to the Office of Inspector General.

(u) Personnel transferred pursuant to subsection (t) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that classification and compensation of such personnel shall not be reduced for one year after such transfer.

(v) In any case where all functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this section, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

SAVINGS PROVISIONS

SEC. 15. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any

agency or office or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Education by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department of Education. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Education, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in the officer's official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in the officer's official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department of Education as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If, before the date on which this Act takes effect, any agency or office, or officer thereof in the officer's official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Secretary of Education,

(B) any function of such agency, office, or part thereof; or officer is transferred to the Secretary of Education,

then such suit shall be continued by the Secretary of Education (except in the case of a suit not involving functions transferred to the Secretary of Education in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the department or officer in which such function is vested pursuant to this Act.

(e) Orders and actions of the Secretary of Education in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer, action upon the record,

ments relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and the Secretary's actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

(g) The Secretary, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred in this Act to the Secretary may delegate any of such functions to such officers and employees of the Department, as the Secretary may designate, may authorize such successive redelegations of such functions as the Secretary may deem appropriate and may make such rules and regulations as may be necessary to carry out functions of the Secretary.

ADMINISTRATIVE PROVISIONS

Sec. 10. (a) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the

Secretary shall find to be desirable in the interest of economy and efficiency in the Department including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities,

and prior losses) considered above the amounts transferred or appropriated to establish and maintain such fund.

(b) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) motion picture equipment and film for recreation and training; and

(4) living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(c) (1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or advantaged, rural, and urban education, and progress made toward the continuing renewal of education; the results and outcomes of education and schooling, including the overall results on generally recognized standard examinations for entrance to undergraduate and graduate institutions; budget projections for five years based on actual or anticipated appropriations for the fiscal year in which the annual report is issued; recommendations as to the improvement of programs for the handicapped, recommendations with respect to the advisory structure of the Department, including the names and composition of advisory committees and councils and the relationships the committees and councils bear to one another and recommendations as to the elimination of overlapping advisory committees and similar data.

CONFORMING AMENDMENTS

SEC. 18. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health, Education, and Welfare"; and

(2) by inserting before the period at the end thereof a comma and the following: "Secretary of Health and Welfare, Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

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advantaged, rural, and urban education, and progress made toward the continuing renewal of education; the results and outcomes of education and schooling, including the overall results on generally recognized standard examinations for entrance to undergraduate and graduate institutions; budget projections for five years based on actual or anticipated appropriations for the fiscal year in which the annual report is issued; recommendations as to the improvement of programs for the handicapped, recommendations with respect to the advisory structure of the Department, including the names and composition of advisory committees and councils and the relationships the committees and councils bear to one another and recommendations as to the elimination of overlapping advisory committees and similar data.

CONFORMING AMENDMENTS

SEC. 18. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health, Education, and Welfare"; and

(2) by inserting before the period at the end thereof a comma and the following: "Secretary of Health and Welfare, Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare." and inserting "Health and Welfare."; and

(2) by adding at the end thereof: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended—

(1) by striking out

"(10) Secretary of Health, Education, and Welfare."

and inserting in lieu thereof

"(10) Secretary of Health and Welfare.";

(2) by striking out "(13)" and inserting in lieu thereof "(14)"; and

(3) by inserting immediately after

"(12) Secretary of Transportation."

the following:

"(13) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended—

(1) by striking out

"(6) Under Secretary of Health, Education, and Welfare."

and inserting in lieu thereof:

"(6) Under Secretary of Health and Welfare.";

and

(2) by adding at the end thereof the following:

"(62) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Assistant Secretaries of Health, Education, and Welfare (5)" and inserting in lieu thereof the following: "Assistant Secretaries of Health and Welfare (4)";

(2) by striking out "General Counsel of the Department of Health, Education, and Welfare." and inserting in lieu thereof the following: "General Counsel of the Department of Health and Welfare."; and

(3) by adding at the end thereof the following:

"(114) Assistant Secretary of Education for Legislative and Public Affairs.

"(115) Assistant Secretary of Education for Administrative and Management Policy.

"(116) Assistant Secretary of Education for Evaluation and Planning.

"(117) Assistant Secretary of Education for Intergovernmental Relations.

"(118) General Counsel, Department of Education.

"(119) Inspector General, Department of Education.".

EXPENDITURES AUTHORIZED

SEC. 19. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

APPROPRIATIONS AUTHORIZED

SEC. 20. There are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this Act and to perform any other duties which may be imposed upon it by law.

EFFECTIVE DATE

SEC. 21. The provisions of this Act shall be effective on its date of enactment.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

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Calendar No. 1000

95TH CONGRESS } SENATE { REPORT
2d Session } { No. 95-1078

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

AUGUST 9 (legislative day, May 17), 1978.—Ordered to be printed

Mr. RIBICOFF, from the Committee on Governmental Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 991]

The Committee on Governmental Affairs, to which was referred the bill S. 991 to establish a Department of Education in the executive branch, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

PURPOSE OF THE LEGISLATION

The basic purpose of S. 991 is to provide for the establishment of a Federal Department of Education. Today, there are more than 300 separate Federal education programs involving expenditures reaching nearly $25 billion. The Federal presence in education is substantial. Over 40 Federal departments and agencies are involved in education grants, services, and regulations.

The late Senator Hubert H. Humphrey, in discussing the need for a Department of Education noted last year;

> It is necessary to have a more efficient mechanism for the coordination of these numerous programs in a sensible, workable, and effective framework.

The purpose of S. 991 is to structure the Federal education effort in such a way that Federal education programs are able to adapt to the changing needs of the nation. S. 991 provides a mechanism for the large array of Federal programs to be effectively coordinated. Its development reflects the following:

> Education is important to the total learning population—it is a continuing process and includes lifelong and noninstitutional learning.
>
> The Federal education effort should enhance the ability of public and nonpublic organizations as well as State and local education agencies to improve the quality of education and equality of access for all individuals.
>
> The Federal education effort should be designed to help meet the future educational needs of our Nation.

The purpose of the bill is to make the Federal education effort more effective and coordinated.

Education in the United States has traditionally been a function of State and local governments and private institutions. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent. The delivery of edu- institutions. The intention of S. 991 is to preserve this prerogative. There is a need to insure that the Federal presence in education should be supportive, helpful and effective. Not only would the Department of Education increase the visibility and attention given to education needs at the Federal level, but it is designed to increase the participation of families, communities, public and private schools, and state and local governments in this process.

The Department is thus designed around the following purposes:

(1) To insure that education receives appropriate emphasis at the Federal level. By creating a Cabinet Department of Education, effective management, coordination, and leadership in Federal programs can be substantially improved. The relatively low bureaucratic status of the Office of Education means that education receives less attention from the Cabinet and the President. The large number of existing Federal education programs has created management problems at the Federal, State, local, and institutional levels. The scattering of programs across Federal agencies has resulted in poor coordination in addition to multiple, duplicative and even conflicting regulations. Fragmentation at the Federal level has led to piecemeal approaches to education and education-related problems.

(2) To assist the Federal effort in coordinating education activities and programs through interagency cooperation, technical assistance, and evaluation of program effectiveness.

The Secretary will be responsible for education programs within the Department. Additionally, the Secretary will head the Federal Interagency Committee on Education which would insure close coordination of Federal education activities to facilitate the resolution of common problems and promote effective planning and management of such activities.

In addition, the Secretary will provide technical assistance to education programs of other Federal departments and evaluate the effectiveness of education programs.

(3) To continue and strengthen the Federal commitment to insuring access to equal education opportunities. Equal educational opportunity has been and must remain a major educational goal of the Federal Government.

The Federal Government has acted to insure equality of educational opportunity for every American regardless of race, sex, age, ethnic heritage, economic disadvantage, or handicapping condition:

Racial minorities.—Through compliance efforts, technical assistance, and financial assistance the Federal Government has promoted racial desegregation.

Handicapped.—Through Public Law 94–142 (the Education for All Handicapped Children Act) and section 504 of the Rehabilitation Act of 1972, the handicapped are guaranteed an appropriate education.

Language minorities.—Several Federal programs help to deal with the problems of children with limited English language skills.

Women.—Several Federal programs, and statutes such as the Women's Educational Equity Act, and title IX of the 1972 education amendments, are designed to help end sex discrimination.

Compensatory education.—Title I of the Elementary and Secondary Education Act has provided compensatory education for the economically disadvantaged.

Access to higher education.—The Higher Education Amendments of 1972 began to give students from low-income families access to higher education.

Native Americans.—A number of Federal programs in the Office of Education and Bureau of Indian Affairs make it possible for Indians, Alaska Natives, and Aleuts to receive adequate education services.

Migrant children.—The Federal Government provides a variety of services for migrant children.

As a result ofthese and other Federal initiatives—increased access to postsecondary education, bilingual education, and the education of all handicapped children—schools and colleges have dramatically increased their efforts to meet the educational needs of children and youth, particularly those from poor families and minority backgrounds.

S. 991 insures the continuation and strengthening of the Federal commitment to insuring equal educational opportunities for every individual regardless of race, sex, age, ethnicity, economic disadvantage, or handicapping condition. In conjunction with this responsibility, it establishes an Office for Civil Rights whose director would report directly to the Secretary. To emphasize the importance of civil rights compliance, the director's position is upgraded from the present GS–18 level to an executive level IV.

(4) to supplement and complement the efforts of State, local, and tribal governments, the private, public, and nonpublic institutions, education research institutions, community organizations, and parents and students to improve quality of education.

S. 991 recognizes that Federal education policies should be founded on the recognition that Federal, State, and local governments, tribal governments, public and nonpublic institutions, communities, parents, and students must be participants in the Federal education process.

The bill establishes an Intergovernmental Advisory Council on Education. The Council would conduct studies and make recommendations to the Secretary and to the President and, where appropriate, to the Congress for improving the intergovernmental system for developing and carrying out educational policies.

The Council is designed to supplement and complement State and local efforts to meet the Nation's education needs.

Assigned within the Department is a level IV officer to perform intergovernmental policy and relations functions. The officer would have responsibility for assuring that Federal education policies are supportive of the various interests involved in the intergovernmental process.

(5) To encourage the increased involvement of parents, students, and the community in the decisionmaking process, including the development and improvement of education programs and services.

A higher level of citizen participation in the education decisionmaking process will serve to substantially increase public confidence in our educational system.

S. 991 recognizes the need for increased citizen involvement by providing for an effective structure to insure citizen, parent, and student participation in educational programs and to monitor such participation in programs where it is required by law.

(6) To assist in promoting improvements in the quality of American education in basic skill development, educational excellence, and lifelong learning opportunities.

The importance of education to the American people remains high. Yet, at the same time, concern over the lack of quality education is more and more evident. This is demonstrated by concern over declining student achievement, as measured by scholastic aptitude tests and decreased public confidence in the quality of education.

The bill provides a structure to assist in promoting the quality of and the relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities. It specifically provides for assistant secretaries for the major education functions to be performed by the Department—these include the areas of Indian education, education and training programs for the handicapped, child nutrition, elementary and secondary education, postsecondary education, occupational, adult and community education, and research and improvement.

(7) To broaden the approaches to meeting educational needs by increasing dialogue among schools, parents, communities, the work place, the home, and other related institutions.

There is a need for a wide diversity of approaches to education. Although the school has been traditionally the classroom, other more diverse methods of achieving educational experiences are emerging. More services provided by community and private institutions fill the gap the schools fail to address. Increased rates of high school dropouts and unemployed youth are symptomatic of the need for more diversity in education approaches for youth. There is an increasing need for parents to become more involved in their children's education. The wide range of other services offered to children within the school setting are important for achieving the total educational development of the child. Such factors as health and nutrition are important components of the school setting.

S. 991 provides a structure for improving the relationships between education and work, through such programs as vocational and career education and related training programs. It creates an Office for Occupational, Adult, and Community Education headed by an Assistant Secretary, which can serve as the link between the wide array of educational services offered the individual in the workplace and community.

The relationships among parents, schools, business, labor, and communities will be strengthened by such programs as community schools and adult education, which would be administered by this Office.

(8) To provide assistance in the area of research relating to human development, and learning systems that complement education; and to share findings with State, local, and tribal officials public and nonpublic institutions, community organizations, parents, and students.

The bill establishes an Office of Educational Research and Improvement, headed by an Assistant Secretary which would have the responsibility over a wide range of research programs administered by the Department.

With the establishment of this Office, the committee recognizes the need to focus more directly on the Federal Government's efforts to provide help and support of research, development, dissemination, demonstration, and training activities associated with a wide spectrum of educational research activities. These activities include science education, the improvement of quality teaching and the advancement of learning, and the improved development and utilization of programs and facilities associated with technology and telecommunications delivery systems.

(9) To improve the design and management of education and related programs by simplifying Federal procedures and administrative structures and by eliminating unnecessary and duplicative burdens, including unnecessary paperwork, on the recipients of Federal funds.

The bill assures that the Federal role supplements and complements the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated needs of those agencies.

The Department will be responsible for reducing Federal program and reporting requirements to assist the activities of State and local governments and public and nonpublic education agencies.

(10) To establish mechanisms where educational institutions may bring their problems to the attention of appropriate departments and make recommendations to insure the continuing vitality of such institutions. Postsecondary education has become more diverse. Between 1975 and 1978 over 22 million people were enrolled in postsecondary courses and 11.3 million students participated in higher education. Public and private institutions at all levels have been increasing. S. 991 requires the Secretary to assess the contributions of educational institutions and to study ways of insuring their continued vitality as well as their adapting roles to society's changing needs.

It is the committee's intention that in the creation of the Department, that the rights of State, local, and tribal governments, and public and nonpublic educational institutions shall be maintained and protected in the areas of educational policies, administration of programs, and selection of curricula and program content.

The Need for a Department of Education

Having concluded 1½ years' consideration, including 10 days of hearings and testimony from more than 100 witnesses, the committee believes there is a strong need for the creation of a separate, Cabinet-level Department of Education in the Federal Government.

Generally, the committee finds that:

> The low status of education in the Federal Government does not give rightful recognition to education as an important, fundamental national activity;
>
> The Federal Government is not now adequately prepared, in either structural or administrative terms, to assist American education in dealing forthrightly with today's tremendous educational challenges and problems;
>
> The Department of Health, Education, and Welfare has serious institutional weaknesses and deficiencies which require such a major reorganization change—the creation of an education agency separate from HEW;
>
> The scattering and fragmentation of Federal education programs produces burdensome, duplicative, and time-consuming paperwork and regulations; and
>
> There exists today no one high-level, visible, or accountable official in the Federal Government who is concerned with education and who has the ability to effectively coordinate the hundreds of education programs at the national level.

EDUCATION IS IMPORTANT TO THE NATION

The process of education is basic to our society and to the proper functioning of democratic government. When the people are responsible for making decisions affecting their entire society, they must be sufficiently educated to make informed decisions. Democracy depends for its very existence on a highly educated citizenry. And, because the people are involved in decisionmaking at all levels of government in the United States, education is and should be of vital concern to Federal, State, and local governments.

Education has always been an important aspect of our lives. Since the beginning of time, few nations have stressed the importance of education as much as the United States. Few nations, until more recent times, have achieved the near total rates of participation in the educational system that America has achieved. Education in the United States is universally available. Every American citizen is required by law to attend school.

Traditionally, the American people have held a confirmed belief and respect for education as the path upward. A recent Harris Poll last year showed 90 percent of the public felt "achieving quality education for children" was very important. Another survey revealed at least 75 percent of the American people still believe a "free, unlimited education" will be a major contributor to America's greatness in the future.

Education is a major function that involves more people than any other. More than 50 million persons—fully one-quarter of the population—are directly involved in education.

The American people invest more money in education than in our national defense. Total education spending in the United States today exceeds $150 billion—nearly 10 percent of the gross national product.

For State and local governments, education is the single largest expenditure. States and localities are now spending almost 40 percent of their annual budgets to pay for the cost of public education.

Despite problems and crises brought on by our ever-changing society and technology, Americans continue to seek more education to cope with an uncertain future. The facts show this trend clearly:

Half of all children 3 to 5 years of age are now enrolled in preschool programs;

Nearly 80 percent of all 17-year-olds now complete high school, compared with 50 percent in 1940; and

Enrollment in institutions of higher education has jumped from 3.8 million in 1960 to more than 11 million today.

While the responsibility for educational policies and curricula must continue to reside with States, localities, and private institutions, there is a legitimate Federal interest, and a defined role, in education. Presently, there are important programs which the Federal government does carry out in the field of education:

Guaranteeing equal access to education;

Providing assistance for educating the handicapped or disadvantaged;

Conducting comprehensive research into new ideas or trends or problems in education;

Providing valuable complementary financial assistance to States and localities so as to insure the people are receiving a quality education; and

Maintaining significant higher education loan and grant programs to open doors for all students desiring to continue their education beyond public school.

The committee believes the improvement of the Federal education effort must be a major priority. But education will never be a priority as long as it is smothered in layers of bureaucracy, fragmented across several Federal agencies, and diminished by a severe lack of attention in our National Government.

The importance of education to the success of our country will continue to grow.

THE TROUBLED STATE OF AMERICAN EDUCATION

The committee's consideration of the issue of whether to establish a separate Department of Education comes at a time when the problems in education have reached near-crisis proportions.

While Americans continue to strongly believe in education as the key to success and fulfillment, their confidence in the present capabilities of our educational institutions is down sharply. A recent Gallup Poll found 60 percent of the American people feel the quality of education in our schools is declining.

This low level of confidence stems from a variety of sources. Perhaps most disturbing was the revelation last year by the College Entrance Examination Board that overall scores on the Scholastic Aptitude Test (SAT) showed a long, significant decline from 1967 through 1977. In effect, the report said our students were leaving public schools with deficiencies in basic skills. A subsequent college board study, conducted by Willard Wirtz, noted:

> More and more high school graduates show up in college classrooms and employers' personnel offices with barely a speaking acquaintance with the English language and no writing facility at all.

Recent Federal studies have shown students are becoming increasingly disillusioned with their public schools, and as a result, absenteeism is on the rise. Educators are trying to institute a wide variety of different tactics to either lure students back to school, or penalize them for being unnecessarily absent.

A perplexing problem for school officials is reconciling the situation of declining enrollments and increasing costs. As the birth rate in the U.S. continues its steady downtrend, inflation has driven up the cost of education. Instead of being able to save money where fewer students are attending school, a local school district today is actually paying more than before.

The American taxpayer is rebelling against rising property taxes, which are used predominantly in the United States to finance public education. States and localities spend approximately 40 percent of their budgets for education.

While a Department of Education in and of itself could not solve education's tremendous problems, its primary purpose will be to supplement and complement States, localities and private institutions. The Nation's education officials will be hindered in their performance by an ill-equipped, fragmented, and confusing Federal education structure. The Federal Government should assist States and localities in providing a good education for all.

The Committee believes the troubled state of education in our country today would be better aided by the creation of a Department of Education.

HEW'S INSTITUTIONAL DEFECTS

The Department of Health, Education, and Welfare is the largest Cabinet department in the Federal Government. Its budget will rise to $180 billion this year—more than one-third of the entire Federal budget.

HEW's more than 325 programs inevitably touch nearly every living American. Social security, medicare, medicaid, aid to families with dependent children, and a host of other comprehensive programs serve most of the Nation's 220 million citizens. They are all vital to the daily survival of many people. HEW's mandate to safeguard the health and welfare of the American people is an awesome responsibility.

But HEW also has important responsibilities in the field of education. In its examination of the history of HEW, the Committee has found education is often the victim of neglect and of poor interdepartmental competition with massive health and welfare programs.

HEW's size alone causes serious institutional weaknesses which cannot be remedied through any amount of in-house reorganization.

In the last 20 years, the Federal Government's role in health and welfare has expanded 10 times faster than that of education. Out of HEW's $180 billion budget, at least $168 billion will be expended for health and welfare. The remaining $12 billion makes up the budget of the Education Division. Thus, education issues are dominated by health and welfare concerns.

The committee believes, however, the creation of a Department of Education will not result in any dramatic or unusual increases in education spending. On the contrary, the Congress will be better able to clearly evaluate and assess potential education budget allotments on their own merits.

Putting health, education, and welfare together in one Cabinet department in order to develop a comprehensive human services approach in government has not worked in the past at HEW. The facts indicate it will not work in the future. No other country in the world places these three components together in one governmental agency.

In testimony before the committee, Education Division employees said they rarely conduct discussions or even have contact with the other 150,000 employees who work for HEW. Most of the six former U.S. Commissioners of Education who testified before the committee in October 1977 agreed they were involved more in coordination with those education programs outside HEW, such as the school lunch programs in USDA or the CETA programs in the Labor Department. Rufus Miles, Jr., Princeton University professor and former director of HEW administration for more than 12 years, told the committee:

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. This coordination * * * is simply a figment of the imagination.

Former HEW Secretaries have all been invariably, men of high caliber, great intellect, and boundless energy. But HEW's responsibilities in health and welfare are so extensive that the HEW Secretary simply does not have sufficient time to devote to education. President Carter recently surprised the nation by observing the Cabinet official who discussed education with him most was the Attorney General.

The committee thus finds that the overall mission of HEW has changed so substantially since its formation 25 years ago that education is almost "out of place" in that Department. Education is operating separately and distinctly from health and welfare, and benefits little from nonexistent "linkages" to them.

The committee believes by the creation of a separate Department of Education, the administration of, and attention given to, health, education and welfare will improve significantly. Our Nation's health and welfare programs are also important and should not be neglected. By establishing an Education Department, we would be lifting another burden off the back of the HEW Secretary, thereby leaving him or her more time to devote to important health and welfare services.

The creation of a Department of Education is a sound administrative and managerial move. It is important to point out the American

Society for Public Administration, for the first time in its history, has endorsed the creation of a Cabinet department—the Department of Education:

> The addition of another Cabinet department would not unduly stretch the President's span of major organizational control. On the other hand, coordination of educational programs to minimize unnecessary administrative burdens and expense for educational institutions and to rationalize inconsistent educational policies would be facilitated if a Cabinet official were given this as a major assignment.

But, the Secretary of Health, Education, and Welfare is not capable of achieving this coordination, because he or she is institutionally restrained in the difficult assignment of coping with health and welfare matters, as well.

THE SCATTERED, FRAGMENTED FEDERAL EDUCATION EFFORT

This year, the Federal Government will spend more than $25 billion on education in one form or another. But this considerable sum comes from over 300 different programs which are scattered among nearly 40 different Federal agencies.

The fragmentation of Federal education programs means there are many voices in Washington speaking for education. There is no one official out front to take the lead, to have the authority to achieve meaningful coordination of our education effort.

The committee believes there must be effective coordination of this myriad of education programs. There should be one, high-level official who is assigned the task of overseeing the Federal education effort to prevent duplication and inefficiency. Creation of a Department of Education, with a Cabinet Secretary as its head, will go a long way toward achieving this badly needed coordination.

Fragmentation's most harmful attribute is the inordinate amount of burdensome, time-consuming, and duplicate paperwork and regulations. For example, most schools qualify for aid from both the U.S. Office of Education and the U.S. Department of Agriculture. The child nutrition and school lunch programs in USDA have data and accounting requirements, funding cycles, compliance procedures, and eligibility standards which all differ from those of the programs in OE. The result of this sort of fragmentation, according to the Council of Chief State School Officers, is that States and localities are finding themselves spending nearly 40 percent of their time filling out reports for the Federal Government—which gives out only 8 percent of all education costs. One State superintendent, Dr. Joseph Cronin of Illinois, told the committee his office of education employs 20 individuals—at an average salary of $15,000 annually—just to assist in the preparation and presentation of Federal reports.

With 40 different Federal agencies involved substantially in education, the situation today is one where each agency is promulgating its own rules, its own regulations, and its own paperwork requirements. There is inevitably some overlap and duplication.

S. 991, as reported by the committee, will achieve a significant amount of consolidation of widely scattered Federal education programs. Altogether, more than 170 programs will be included in the new Department. The committee strongly believes such a broadly based Department of Education will greatly enhance chances for beneficial reductions in paperwork and regulations, and in overhead costs for States and localities.

While the Department of Education will represent an important step towards consolidation of Federal education services, another 100 education programs will continue to exist in other agencies, mainly because their missions are integrally related to the functions of the agencies in which they reside. Yet coordination between these programs and those of the Education Department will continue to be important.

The Federal Interagency Committee on Education, (FICE), could serve as a useful tool for the Secretary of Education in his or her coordination efforts. To date, the successes of FICE have been few. The Committee was originally authorized by an executive order issued by President Johnson in 1964. Clearly, the problem with FICE has been its low-level status. Federal departments and agencies have often designated representatives to the FICE who rank well below policy level.

But under the new Department of Education, FICE would be headed by the Secretary, and other Federal agencies would be specifically required to appoint high-ranking officials to the Committee. This elevation will insure more effective coordination by placing it at higher levels where the decisions are made.

By consolidating education programs, reducing paperwork and red-tape, and improving coordination between agencies, the Department of Education will make great inroads in remedying a confusing and fragmented Federal education effort.

THE IMPORTANCE OF CABINET STATUS FOR EDUCATION

Improved management of Federal education programs is needed within the Federal Government now more than ever. HEW's institutional deficiencies have thwarted it for too long. The present crisis-like problems in education demand it. And fragmented Federal education programs have gotten out of hand.

Congress and the American people need a highly visible, responsible, high-level Federal official who can be held accountable for the successes or failures of educational programs and policies on the Federal level.

Education needs a strong advocate in Washington to speak for its needs and to assist in solving its problems.

But effective management does not mean "more control." The responsibility for education policy and curriculum will remain at State, local and private levels. Instead, better management by a Secretary of Education means improved accountability, coordination, and advocacy. Each of these is important if the Federal Government is to make a helpful contribution in assisting American education. The committee believes a Department of Education can provide valuable and precious assistant to States, localities, and private institutions without infringing on their constitutional right to determine their individual educational needs and policies.

As the Federal education effort continues to expand, and the pressures on education continue to mount, the importance of Cabinet status for education becomes clearer. Presidential involvement increases. For too long, American Presidents have had difficulty becoming involved in assisting education programs at the Federal level. Most of them have had little contact with their education officials.

The position of U.S. Commissioner of Education is such a frustrating job that sometimes the most capable and qualified individuals are not attracted to it. In the last 12 years, testimony presented by Dr. Samuel Halperin cited the fact that the commissionership has changed hands 13 different times. It is a revolving door that turns rapidly. The Commissioner has little advocacy in the system. He is afforded almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. The Commissioner of Education is buried in the HEW bureaucracy. He rarely sees the HEW Secretary, much less any other high-level official.

In 1972, Congress attempted to elevate the status of education in HEW by establishing the post of Assistant Secretary for Education in the Department. Although Congress made the Assistant Secretary the head of education, little in the way of responsibility was assigned the new official. Most programs remained under the purview of the Commissioner. Today, education responsibilities with HEW are seriously fragmented between a Commissioner and an Assistant Secretary.

Who heads the HEW Education Division? There is no clear answer. In testimony before the committee, Barbara Kemp, president of the union representing the Education Division employees, said the confusion has reached the point where employees, if they want to resign, now address their letters, "To Whom It May Concern."

Through the creation of the Department of Education, the problem of fragmented leadership within HEW would be corrected immediately. For the first time in nearly a decade, education programs would be administered from a clearly ordered, well-organized structure.

The Secretary of Education would clearly be the Federal official for education. Lines of authority and of responsibility within the Federal education structure would be defined. People there would know to whom they report. Administratively, the change would be a significant improvement over the existing situation.

Cabinet officers carry weight in Washington. They can bring problems to light easily. They can bring to the attention of Congress and of the President education matters which are ever changing.

Cabinet status enables the Secretary to better coordinate Federal education programs.

Cabinet status is a step toward increasing administrative efficiency—both for education and health and welfare.

And, giving education Cabinet status will attract more qualified persons to serve in education programs where before others have been turned away by the frustrations of the jobs.

Education deserves to become the 13th member of the President's Cabinet.

HISTORY OF THE LEGISLATION

Efforts to create a Cabinet-level Department of Education in the Federal Government have been ongoing, often sporadically, for the past 125 years.

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In March 1867, Congress created a non-Cabinet Department of Education, primarily to collect statistics and other relevant data on the condition of American education. Unfortunately, this non-Cabinet agency never really got off the ground. Its budget was less than $15,000. It had less than 10 clerks and existed for only slightly more than 1 year. The Department was subsequently given bureau status and placed within the Department of the Interior for the next 70 years.

In 1939, the U.S. Office of Education was transferred from the Interior Department to the new Federal Security Agency created by President Franklin Roosevelt.

The Office of Education has remained in the Department of Health, Education, and Welfare since its creation in 1953 under the Eisenhower administration.

From 1908 through 1951, more than 50 pieces of legislation to establish a separate, Cabinet-level Department of Education were introduced in Congress. In that time period, nearly 20 days of hearings were held on several bills, and at least six were actually reported to either the House or the Senate floor for final consideration. No action, however, was ever taken beyond the committee stage.

Yet, education advocates gave much effort and consideration in the first half of the 20th century to the creation of a separate Education Department. As far back as February 1910, then U.S. Commissioner of Education Elmor Brown, in testimony before a congressional committee on the issue, predicted:

> A time will be reached when the erection of such a department of the Government as this measure contemplates will be necessary to good administration.

In a December 1923 message to Congress, President Calvin Coolidge gave his support to the concept of the separate Department:

> Having in mind that education is peculiarly a local problem, and that it should always be pursued with the largest freedom of choice by students and parents, nevertheless, the Federal Government might well give the benefit of its counsel and encouragement more freely in this direction. I do consider it a fundamental requirement of national activity which is worthy of a separate department and a place in the Cabinet.

And in 1931, the National Advisory Committee on Education recommended the creation of a Cabinet Department of Education:

> No bureau chief or head of a detached or independent establishment can give the equal access to the Chief Executive and that equality of approach to the heads of all departments concerned essential to the effective total operation of education of education in government. The presence in the government of an officer of cabinet rank would insure that effective contribution of education which is essential to the future political and social welfare of the nation.

The Federal effort in education continued to grow dramatically after the creation of HEW in 1953. The budget for the Office of Education jumped from approximately $400 million then, to $4 billion during President Johnson's Great Society initiatives, to more than $10 billion today.

And as the Federal effort increased, so did calls in Congress for the creation of an Education Department separate from HEW. From 1953 to the present, more than 80 pieces of legislation were introduced in Congress and a large number of authoritative studies were conducted.

Under the Johnson administration, three separate task forces seriously studied the concept of a Cabinet Department of Education. The 1964 Task Force on Government Reorganization favored an Education Department:

> Because the schools have been afraid of Federal domination, the Government has never had a comprehensive policy for the advancement of education and research. But it is unrealistic to think we can protect the freedom of education by pretending to ignore it.

Also in 1964, a study team headed by then HEW Secretary John Gardner was split between creating an independent Office of Education at the Presidential level and creating a Cabinet department. Still another group, the Heineman task force, concluded in 1967 that a Department of Education was not necessary at that time.

Much attention was focused on the introduction of S. 100 (the Department of Education Act) in January 1965 by Senator Ribicoff. A former Secretary of Health, Education, and Welfare, Senator Ribicoff said a Department of Education was necessary because education was not receiving the attention it deserved in the burgeoning and increasingly unmanageable HEW Department. The Ribicoff bill has been reintroduced in every Congress since then.

The 1970's brought a renewed interest in the establishment of a Cabinet-level Department of Education. In the 1972 Presidential campaign, the Democratic candidate, Senator George McGovern, announced his support for giving education Cabinet status. In 1976, the Ford Foundation and the American Council on Education sponsored a landmark study on the issue, authored by Rufus Miles, Jr., formerly HEW director of administration throughout the 1960's. The Miles study gave strong backing to the creation of a Department of Education.

President Carter, throughout his 1976 campaign for the Presidency, pledged that in his proposed reorganization of the Federal Government, he would create a Department of Education.

In March 1977, Senator Ribicoff again introduced his legislation. This time, however, more than half of the members of the U.S. Senate joined him in cosponsoring the bill, S. 991. In the U.S. House of Representatives, nearly 30 different pieces of legislation to create a separate Department were also introduced in the 95th Congress.

Upon taking office, President Carter set up the President's reorganization project to study the Federal Government structure and recommend reorganization proposals. The project's education study team began work in April 1977. In late November 1977, they presented to the President for his review three options: (1) The creation of a Department of Education; (2) the creation of a Department of Education and Human Development; and (3) an uplifting of the status of the Education Division within HEW. The President decided in favor of the establishment of an Education Department, and announced his decision in his state of the Union address in January 1978.

Meanwhile, the Committee on Governmental Affairs opened the first congressional hearings on Department of Education legislation in nearly 25 years. On October 12 and 13, 1977, prominent academic authorities, major national education organizations, and six former U.S. Commissioners of Education testified on the need for the Department.

The committee devoted 10 days of hearings to S. 991 and heard testimony from more than 100 witnesses. Committee markups on S. 991 were held July 11, 14, and 18, 1978. S. 991, the Department of Education Organization Act, was unanimously ordered reported by the committee for full Senate consideration.

SUMMARY OF THE LEGISLATION

PROGRAMS TRANSFERRED

Program	Agency	Fiscal year 1978	
		Staff	Budget
Education Division	Health, Education and Welfare	3, 600	$10.5 billion.
Inspector General	do	117	$3.5 million.
Office for Civil Rights	do	1, 102	$33.3 million.
Special Institutions	do	1	$44.8 million.
Telecommunications Demonstration	do	12	$31 million (fiscal year 1979).
Health Professions Student Loans	do	21	$20 million.
Nursing Loans and Scholarship Programs	do	24	$31.5 million.
Rehabilitative Services Administration	do	342	$976.3 million.
Office for Handicapped Individuals	do	14	$689.6 thousand.
Advisory Council on Educational Statistics	do	1. 5	$29 thousand.
Institute of Museum Services	do	15	$28 million.
Child Nutrition	Agriculture	600	$3.5 billion.
USDA Graduate School	do		
BIA Educational Programs	Interior	5, 892	$291.9 million.
Overseas Dependents' Schools	Defense	10, 000	$350 million.
Law Enforcement Education Loans	Justice	9	$30 million.
Selected Science Education Programs	National Science Foundation	40	$56 million.
College Housing Construction Loans	Housing and Urban Development	3	$111 million (fiscal year 1979).

TITLE I

Title I states the purposes for creating the Department of Education and the congressional findings.

Some of the congressional findings are: Education is fundamental to individual development and national growth; there is a need to insure equal educational opportunity; the primary responsibility of education is that of State, local, and tribal governments, public and nonpublic institutions, families, and communities; the proliferation of Federal programs has created management problems at the Feedral, State, local, and institutional levels; there is a need to improve the quality of education; and the existing structure of the executive branch does not recognize adequately the importance of education.

Some of the purposes of the Department are: To insure education receives the appropriate emphasis at the Federal levels; to provide leadership to Federal efforts to improve quality and access to education; to continue and strengthen the Federal commitment to equal educational opportunity; to supplement and complement the efforts of State, local, and tribal governments, the private sector, public, and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curriculums, decide administrative questions, and choose program content with respect to their educational programs; to encourage parental, student, and community involvement; to promote the quality and relevance of education to individual needs, including basic skills and lifelong learning; to broaden the approaches to meeting educational needs by strengthening relationships among schools, parents, students, communities, the workplace, and other institutions; to improve and simplify the design and management of education programs and eliminating unnecessary constraints, including unnecessary paperwork, on the recipients of Federal funds; and to assess the potential contribution of higher education institutions to improving national education goals. The bill further states it is the intention of Congress to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curriculums and program content.

TITLE II

Title II establishes the Department. It provides for the offices and the officers which administer them. It provides for a Secretary and an Under Secretary. It also provides for the following offices which are headed and administered by Assistant Secretaries carrying the same titles: Office of Indian Education; Office of Child Nutrition; Office of Elementary and Secondary Education; Office of Post Secondary Education; Office of Occupational, Adult, and Community Education; Office of Educational Research and Improvement; and Office of Special Education and Rehabilitative Services. There is also established in this section an Office for Civil Rights, to be administered by a Director (appointed by the President with the advice and consent of the Senate), an Office of Education for Overseas Dependent Children, to be administered by an Administrator, and three additional officers (two executive level IV Assistant Secretary positions and one level V position) to perform staff functions. These functions would include: Intergovernmental policies and relations, public information; planning, evaluation, and policy development; congressional relations; administration and management; and public, parent, and student involvement.

Each Assistant Secretary and the Director of the Office for Civil Rights would be compensated at the rate provided for executive level IV. The Administrator of the Office of Education for Overseas Dependent Children and the additional officer who is not an Assistant Secretary would be compensated at the rate provided for executive level V.

Of the staff functions to be performed by the three additional officers, intergovernmental policies and relations would be performed by one of the level IV Assistant Secretaries and the planning, evaluation, and policy functions would be performed by the other level IV position, in addition to any other duties the Secretary may assign.

This title also provides for an Inspector General, to have the same responsibilities and independence as HEW's Inspector General, and a General Counsel. Each of these officers would be executive level IV's.

The Director of the Office for Civil Rights would be required to submit an annual report to the President, the Secretary, and the Congress on the enforcement and compliance of education-related civil rights laws.

With regard to the Office of Indian Education, the eligibility requirements would not be altered or eliminated for participation in programs previously administered by the Secretary of the Interior or the Department of the Interior. The trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts would not be altered in any way. The actual operation of the schools would be phased in over a 3-year period.

This title also provides for the establishment of an Intergovernmental Advisory Council. The Intergovernmental Advisory Council on Education would provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; and assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation, by State, local, and tribal governments and public and nonpublic educational institutions.

The Council would be composed of 22 members to be appointed by the President. In making appointments, the President would consult with such groups as the National Governor's Conference, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors.

Lastly, this title elevates the existing Federal Interagency Committee on Education by giving it statutory authority and providing that the Secretary will be the chair. The committee would be a mechanism to insure the consistent and coordinated administration of policies and practices by Federal agencies in the conduct of education programs.

TITLE III

This title transfers agencies and functions. The largest amount of programs come from the transfer of the entire Education Division of HEW. There are, however, other transfers from HEW itself which are outside the Education Division. These include the Institute of Museum Services, any advisory committees relating principally to education, responsibilities of the Secretary of HEW for Education programs in the Education Division, the Inspector General functions relating to programs in the new Department, the Office for Civil Rights education functions, budgetary oversight of various special institutions, telecommunications demonstration projects, and health professions and student loans (medical doctors and nurses).

This section also transfers components from other departments and agencies. These include:

From the Department of Agriculture.—The child nutrition and nutrition education programs (other than women, infants, and children feeding programs) will be transferred. These are mainly the school feeding programs—the largest of which is the national school lunch program. This transfer does not include the surplus agricultural commodity program, which will remain in the Department of Agriculture.

From the Department of the Interior.—The programs relating to the education of Indians, Alaskan Natives, and Aleuts will be transferred. These relate to the operation of the schools, the Johnson-O'Malley education assistance, and the continuing education programs.

From the Department of Defense.—The operation and administration of the overseas dependent schools will be transferred. The schools would be phased in over a 3-year period.

From the National Science Foundation.—Programs relating to science education will be transferred. Programs which the Director of the Office of Management and Budget determines relate to fellowships and traineeships integral to the support of scientific research and development, ethical, value and science policy issues or communicating science values to nonscientists will not be transferred.

From the Department of Justice.—Student loan and grant programs known as the law enforcement and education program and the law enforcement intern program will be transferred.

From the Department of Housing and Urban Development.—The college Housing loan program will be transferred.

TITLE IV

This title contains the personnel provisions and general administrative authorities for the Secretary. The bill transfers existing positions in the General Schedule pool to the Department and authorizes 71 new supergrade positions for the Department. Twenty-one of these positions would replace the supergrades already created by statute in the education division. The bill also authorizes the Secretary to appoint professional and technical employees in a number not to exceed one-third of the total number of employees of the Office and 15 temporary supergrades for transittional tasks for a period limited to 3 years after the effective date of this act. Section 412 authorizes the Secretary to delegate functions to employees in the Department where the Act does not provide otherwise. Section 413 establishes the procedure and safeguards of the Secretary's reorganization power within the Department. The other provisions provide standard administrative powers such as power to contract, use facilities, make a report, design a seal, establish a working capital fund, et cetera. The Secretary would also be required to make an annual report on the assessment of educational progress and improved coordination of functions within the Department.

TITLE V

This title is concerned with transitional, savings, and conforming provisions. Some of the significant provisions are: transfer of personnel and funds; termination by operation of law of any existing office or agency all of whose functions are transferred; authorization of the Director of the Office of Management and Budget to make determinations of incidental transfers of personnel and funds relating to transferred programs; the continuation of existing orders, proceedings, et cetera, made before the transfers by parent agencies until modified by the Secretary or the President; conforming amendments; and the redesignation of HEW as the Department of Health and Welfare.

TITLE VI

This title is concerned with interim dates and appointments. It provides for the effective date of the Department as 180 days after the Secretary takes the oath of office and allows appointments of the principal officers and promulgation of regualtions before the effective date.

SUMMARY OF HEARINGS

The committee conducted 10 days of hearings and heard testimony from more than 100 witnesses. These hearings spanned many areas of interest regarding the creation of the Department of Education. Out of the 10 days of hearings, nearly 4 were devoted to the general concept of the Department, 2 were concerned with the transfer of child nutrition programs, another was spent considering the transfer of the Department of Defense Dependents Schools and the science education programs from the National Science Foundation, 1 day each was devoted to the proposed transfer of Head Start and Indian education, and the administration testified on two occasions.

October 12.—The committee opened the first congressional hearings in 25 years on Department of Education legislation. Three panels of witnesses testified. The first, composed of Senators Pell, Domenici, and Bellmon, expressed their support for the creation of the Department and their appreciation to the committee for commencing hearings on the issue.

The second panel was composed of three members of the citizen's committee for a separate Department of Education. James Farmer, Dr. Carl Marburger, and Winfield Kelly, Jr. underscored the long-overdue need for a Cabinet-level Department of Education. They said a Department of Education could give more attention to education in the Federal Government, and involve parents and citizens more in the educational process.

The third panel consisted of academic authorities in education administration. These authorities, Rufus Miles, Jr., Dr. Stephen Bailey, and Dr. Samuel Halperin, emphasized the administrative gains would be made in Federal education programs through the creation of an education department. They testified that education is smothered by the concerns of health and welfare in HEW and competes poorly for budget and personnel.

October 13.—In the first panel, the committee heard from the so-called "big six" national education organizations. Representatives from the National Education Association, Council of Chief State School Officers, National Association of State Boards of Education, National Congress of Parents and Teachers, and the American Association of School Administrators supported the creation of the Department, and emphasized the need for more direction, leadership, and coordination at the Federal level.

The second panel consisted of six former U.S. Commissioners of Education, including Dr. Terrel Bell, Dr. Sidney Marland, Harold Howe II, Francis Keppel, Dr. Sterling McMurrin, and Dr. Samuel Brownell. The former commissioners related to the committee their administrative and policy experiences, observations, and frustrations with the U.S. Office of Education. Messrs. Howe and Brownell urged further study of the concept by the committee before making decisions. Messrs. Bell, Marland, McMurrin and Marland gave their support to the bill, and recommended the committee balance educational interests in the new Department's structure.

March 20.—The first panel testified on the general concept of the Department of Education. It was composed of representatives of two student groups and the president of the American Federation of Government Employees, Local 2607, HEW Education Division. The student groups supported the new Department, and advocated the creation of channels for student input. The union president, Barbara Kemp, illustrated the present lack of leadership and coordination for education matters in the Federal Government. Ms. Kemp told the committee there was low morale in the Office of Education.

The second panel included various experts in the area of school feeding programs, including representatives of the American School Food Service Association. The ASESA's testimony reflected a "fear of the unknown." It listed conditions to be fulfilled before it would support the transfer, including the creation of an assistant secretary for child nutrition, a commitment to expansion and universal school feeding, retention of nutrition education and training of school food service personnel, and maintenance of the provision of surplus and nonsurplus agricultural commodities to the schools. Support for the transfer was expressed by Dorothy Van Egmond, Fairfax County Public Schools food services director, who said USDA regulations are not sympathetic to the working relationships cafeteria managers have with school administrators.

March 21.—Three panels discussed the general concept of the creation of separate Department of Education. The first was composed of witnesses representing concerns of State and local governments. Illinois State Superintendent of Education Joseph Cronin, in supporting the legislation, emphasized the inability of States to deal with Federal education programs and offices at fourth and fifth levels of bureaucracy. The Education Commission of the States cautioned that great care must be taken in creating the Department to insure it will be responsive to State and local needs. Although the panel expressed some concern for the traditional role of the States in education, Pennsylvania State Representative Helen Wise said the creation of the new Department would present an opportunity to improve Federal, State and local relations in education.

The second panel consisted of two organizations opposing the creation of the Department—the American Federation of Teachers, and the U.S. Catholic Conference. Albert Shanker, president of the A.F.T., proposed a reorganization within HEW instead of the separate Department. Shanker argued linkages should be developed between education, and health and welfare. Msgr. Wilfred Paradis, secretary of education for the Catholic Conference, said the new Department might destroy "pluralism" in American education, and might not be sensitive to the need of private education.

Four higher education groups made up the third panel: American Association of Community and Junior Colleges, American Council on Education, State Higher Education Executive Officers, and American Association of University Professors. Each group, with the exception of ACE, supported the new Department, and urged that a high-level official in the new Department be established to address the needs of higher education. The ACE, while not taking a formal position on the legislation, also recommended a high-level officer and suggested changes in the bill to insure effective coordination of Federal education programs.

April 14.—James McIntyre, Director of the Office of Management and Budget, made the first of two appearances before the Committee to testify on S. 991.

Mr. McIntyre, on behalf of the administration, favored the creation of a Cabinet-level Department of Education. He endorsed S. 991 and its proposed transfers, except for the following recommendations: the option of transferring the National Endowments for the Arts and for the Humanities and the training and youth services programs should be reserved for future consideration. He also suggested that the nursing loan and scholarship program, the health profession student loan program, the law enforcement education program and the internship programs, and the Indian student higher education assistance program should be transferred to the new Department. The administration also recommended the establishment of an intergovernmental advisory council on education. As a general recommendation, the administration believed that programs should be organized around groups served by the Department.

April 18.—The first panel discussed the transfer of the Department of Defense Dependents Schools to the Education Department. I. M. Greenberg, Deputy Assistant Secretary of Defense for Program Management, expressed the DOD's support for the transfer of the school system and said any logistical problems could be worked out with close cooperation between DOD and the new Department. Carl Moore, Overseas Education Association executive director, said it was unreasonable to expect the DOD to have the expertise in running efficiently the schools, and the system should be in a Department whose primary goal is education. Two past presidents of the European Congress of Parents, Teachers and Students expressed concern that the logistical support and military community responsibility for the overseas dependents schools would suffer if the transfer were made.

The second panel directed its attention to the transfer of science education programs from the National Science Foundation to the new Department. Three science groups were concerned that the ties science education has with science in general, and particularly with scientists and research, will be lost if the transfer is made. A representative of the President's science advisor supported the transfer.

April 27.—Originally, S. 991 transferred the Head Start program from the Office of Human Development Services in HEW to the new Department of Education. This provision, however, was deleted in the committee's markup of the legislation. The committee nevertheless devoted one day of hearings to this proposed transfer. Senator Brooke and Representative Chisholm testified that the program operates very successfully now in HEW and should not be tampered with. The fear that educators would not maintain the unique, comprehensive, and parent-involvement approach of Head Start was reflected in testimony by the Children's Defense Fund, National Head Start Association, and the National Congress of Hispanic American Citizens. Support for the transfer was expressed by a representative of the California Department of Education, a Project Head Start coordinator, and a professor of early child development. In addition, James Parham, deputy assistant secretary for human development services, HEW, presented the administration's position of supporting the transfer of Head Start.

May 8.—The committee held a second day of hearings on the issue of the transfer of child nutrition programs to the Department of Education. There were four panels of witnesses who testified.

Carol Foreman, assistant secretary for food and consumer services at USDA, favored the transfer on behalf of USDA and the administration. Ms. Foreman said administering child nutrition programs from the Department of Education would lead to more complete integration of nutrition in the schools. She also said the commodity programs would continue to operate successfully, and would not be affected by the transfer.

Support for the transfer also came from a panel of witnesses comprised of a representative of the Council of Chief State School Officers, the Society for Nutrition Education, and the administrator of the New York City school food services. They said schools would benefit from parallel administration of the child nutrition programs by Federal, State and local education agencies. They also emphasized the opportunity for increased coordination between the classroom and the cafeteria if the transfer were made.

Opposition to the transfer was voiced by a panel of nutrition groups and a panel of commodity groups. The former panel, consisting of the Food Research Action Center, Community Nutrition Institute, Children's Foundation, and the ASFSA, was concerned that educators would not expand the delivery of child feeding programs, and that within the new Department other educational programs would take precedence. These groups also argued that while in the past USDA might not traditionally have been receptive to the programs, recent progress has been made and the transfer is untimely.

The commodity panel, composed of representatives of the National Cattlemen's Association, National Milk Producers Federation, Poultry and Egg Institute, and the American Farm Burau feared the Department of Education would cash out the commodity program. Further, the members of this panel underscored the experience and expertise USDA has in dealing with child nutrition.

May 16.—The committee held a full day of hearings on the transfer of Indian education programs from the Bureau of Indian Affairs to the new Department. A wide divergence of opinion developed among the members of the Indian community present on this issue.

The Navajo Division of Education, the First American Caucus of the National Education Association, the All Indian Pueblo Council, the Mississippi Band of Choctaw Indians, and two Federal officials supported the transfer if certain conditions and safeguards were met, including maintenance of the trust responsibility, preservation of existing eligibility and Indian preference requirements, and continuation of self-determination, among others.

Opposing the transfer were the National Tribal Chairmen's Association, the National Congress of American Indians, the National Indian Education Association, American Indian Higher Education Consortium, Coalition of Indian-Controlled School Boards, Northern Cheyenne Tribe, Minnesota Chippewas, and Affiliated Tribes of Northwest Indians. Their concerns centered on the fear the trust responsibility of the Federal Government would be eroded. They also argued there was little consultation with Indian tribes on the transfer, and the proposed move would be the beginning of the dismantling of the Bureau of Indian Affairs.

The administration's support for the transfer of BIA education functions, along with those of HEW, was presented by James Joseph, Under Secretary of the Interior, and Dr. Gerald Gipp, Deputy Commissioner of Education for Indian Education. The administration pledged its continued commitment to the Federal Government's trust responsibility, and proposed the transfer of the BIA schools be "phased-in" to the new Department over a 3-year period to minimize disruption.

May 17.—Returning to testify on the Committee's tenth and final day of hearings on S. 991 was James McIntyre, Director of the Office of Management and Budget. He was accompanied by Hale Champion, Under Secretary of HEW.

Under Secretary Champion expressed the Department of Health, Education and Welfare's commitment to the creation of the Department of Education. Mr. Champion said education has the size, scope, and character to deserve its own place in the Cabinet, and that better coordination of other educational functions would result.

Mr. McIntyre's testimony outlined the organizational structure of the new Department of Education as envisioned by the administration. His recommendations included: the establishment of a statutorily based intergovernmental advisory council on education, the elevation of the Federal Interagency Committee on Education to the secretariat level, the creation of 14 executive level positions reporting directly to the Secretary. (including an executive level IV position for the Office of Civil Rights), organizing the Office of Inspector General in accordance with the provisions of the Inspector General bill pending before the committee, placing research and improvement in a high-level position, and the establishment of a mechanism to encourage public and parental involvement. The administration further advocated that at least two assistant secretary-level positions should be allocated according to functional lines for programs currently in HEW's Education Division, and the programs that are transferred to the new Department must be moved intact and the leadership of them must come from the pool of 14 executive-level positions.

DEPARTMENT OF EDUCATION HEARINGS: WITNESS LIST

OCTOBER 12, 1977

Panel I

Hon. Claiborne Pell, U.S. Senator, Rhode Island.
Hon. Pete V. Domenici, U.S. Senator, New Mexico.
Hon. Henry Bellmon, U.S. Senator, Oklahoma.

Panel II

James Farmer, Executive Director, Coalition of American Public Employees.

Dr. Carl Marburger, Senior Associate, National Committee for Citizens in Education.

Winfield M. Kelly, Jr., County Executive, Prince Georges County, Md.

Panel III

Rufus E. Miles, Jr., Woodrow Wilson School of Public Affairs, Princeton University.

Dr. Stephen K. Bailey, Harvard Graduate School of Education.

Dr. Samuel Halperin, Former HEW Deputy Assistant Secretary for Legislation.

OCTOBER 13, 1978

Panel I

John Ryor, president, National Education Association.

Dr. Wayne Teague, Chief State School Officers, Alabama State Superintendent of Education; accompanied by Joanne Goldsmith, Member, Maryland State Board of Education, National Association of State Boards of Education.

Grace C. Baisinger, president, National Congress of Parents and Teachers (PTA).

Will D. Davis, president, National School Boards Association.

Frank Dick, immediate past president, American Association of School Administrators, Superintendent of Schools, Toledo, Ohio.

Panel II

Dr. Terrel H. Bell, Commissioner of Higher Education, State of Utah.

Dr. Sidney P. Marland, president, College Entrance Examination Board, University of Utah.

Harold Howe, II, vice president for education, The Ford Foundation.

Francis Keppel, director, Program on Education, Aspen Institute for Humanistic Studies.

Dr. Sterling M. McMurrin, dean, Graduate School, University of Utah.

Dr. Samuel M. Brownell, professor emeritus, Yale University.

MARCH 20, 1978

Panel I

Lawrence Zaglaniczny, executive director, Coalition of Independent College and University Students.

Joel Packer, legislative director, National Student Association/National Student Lobby.

Barbara H. Kemp, president, A.F.G.E. Local 2607 (HEW Education Division).

Panel II

Faith Gravenmier, chairwoman, American School Food Service Association Legislative Committee.

Dorothy Van Egmond, director, food services, Fairfax County Public Schools.

Dorothy L. Finch, supervisor, food services, Granview, Washington School District.

Helen B. McGee, nutrition coordinator, Oklahoma State Department of Education.

Gary Hotchkin, executive director, American School Food Services Association.

MARCH 21, 1978

Panel I

Lubbie Harper, Jr., executive assistant, New Haven Public Schools.

Dr. Joseph M. Cronin, Illinois State Superintendent of Education.

Hon. Helen Wise, member, Pennsylvania State House of Representatives.

Dr. Warren G. Hill, executive director, Education Commission of the States.

Panel II

Albert Shanker, president, American Federation of Teachers.

Msgr. Wilfrid Paradis, secretary, Department of Education, U.S. Catholic Conference.

Panel III

Charles B. Saunders, Jr., director, government relations, American Council on Education.

Dr. Helena B. Howe, chairwoman, board of directors, American Association of Community and Junior Colleges.

Dr. James A. Norton, chancellor, Ohio Board of Regents, Representing State Higher Education Executive Officers.

Dr. Donald L. Robinson, chairman, Task Force on a Separate Department of Education, American Association of University Professors.

APRIL 14, 1978

James T. McIntyre, Jr., director, Office of Management and Budget, accompanied by Patricia Gwaltney, Deputy Associate Director for Human Resources Organizational Studies.

APRIL 18, 1978

Hon. Cecil Heftel, U.S. Representative from Hawaii.

I. M. Greenberg, Deputy Assistant Secretary for Program Management, Department of Defense; accompanied by Dr. Anthony Cardinale, Director DoD Dependent Schools.

Carl D. Moore, Executive Director and General Counsel Overseas Education Association.

Col. Robert F. Comeau, Staff Judge Advocate, U.S. Army, Fort Polk, La., Past President, European PTSA (1973–75).

Lt. Col. Michael J. Scotti, Jr., M.D., U.S. Army Fort Gordon, Ga., Past President, European PTSA (1975–76).

Panel II

Phil Smith, Deputy Associate Director, Office of Science and Technology Policy.

Dr. Arthur H. Livermore, head, Office of Science Education, American Association for the Advancement of Science.

Dr. J. Myron Atkin, dean, College of Education, University of Illinois.

Robert L. Silber, executive director, National Science Teacher's Association.

Melvin Thompson, Executive Director Committee on Minorities and Engineering National Research Council, National Academy of Sciences.

APRIL 27, 1978

Hon. Edward Brooke, U.S. Senator, Massachusetts.

Hon. Shirley Chisholm, U.S. Representative, 12th District, New York.

Jim Parham, Deputy Assistant Secretary for Human Development Services, Department of Health, Education and Welfare; accompanied by Ms. Nancy Amidei, Deputy Secretary, Congressional Affairs and Deputy Under Secretary for Human Development Services.

Panel I

Marian Wright Edelman, Director, Children's Defense Fund.

Dr. Edward Zigler, Yale University.

Nancy Spears, president, National Head Start Directors Association, Lee County Head Start.

Juan J. Gutierrez, National Congress of Hispanic American Citizens.

Panel II

Dr. Ann Taylor, professor, Early Child Development, Carnegie-Mellon University.

Frances Walker, assistant superintendent of public instruction, director, office of child development, California State Department of Education.

Ruth Cumbo, director Prince Georges County Head Start project.

MAY 8, 1978

Hon. Carol Tucker Foreman, Assistant Secretary, Food and Consumer Services, U.S. Department of Agriculture; accompanied by Robert Greenstein, Assistant to the Secretary.

Panel I

Dr. Robert D. Benton, superintendent, public instruction, State of Iowa.

Helen D. Ullrich, executive director, Society for Nutrition Education.

Elizabeth Cagan, chief administrator, New York City School Food Services.

Panel II

Barbara Bodie, Director, The Children's Foundation.

Ellen Haas, Community Nutrition Institute.

Roger Schwartz, director, Food Research and Action Center.

Marie McGlaun, school lunch director, Columbus, Ga., and legislative chairperson, Georgia State School Food Service Association, representing the American School Food Service Association.

David Page, president emeritus, American School Food Service Association.

Panel III

William McMillan, vice president, Government Affairs, National Cattlemen's Association.

Hendrik Wentink, director, Poultry and Egg Institute of America.

Susan Fridy, National Milk Producers Federation.

John Datt, director, Washington Office American Farm Bureau Federation.

MAY 16, 1978

Hon. James Joseph, Under Secretary of the Interior, accompanied by Edward Marich, Acting Executive Officer, Office of Indian Education Programs, B.I.A., and M. Elizabeth Holmgren, Planning Officer, Indian Education Programs, Department of Interior.

Panel I

Dr. Gerald Gipp, Deputy Commissioner of Education, Office of Indian Education, HEW, accompanied by William Blakey, Deputy Assistant Secretary for Legislation (Education) HEW, and William Stormer, Division of School Assistance in federally affected areas, U.S. Office of Education, HEW.

Panel II

P. Samuel DeLoria, National Congress of American Indians.

Patricia Locke and Larry Snake, National Tribal Chairman's Association.

Lionel Bordeaux, president, National Indian Education Association.

Georgianna Tiger, National Indian Education Association.

Billie Nave Masters, chairperson, First American Caucus, National Education Association.

Joseph Dupris, executive director, Coalition of Indian Controlled School Boards.

Leroy V. Clifford, executive director, American Indian Higher Education Consortium.

Panel III

William E. York, chairman, Education Committee Mississippi Band of Choctaw Indians.

Dr. Samuel Billison, director, Division of Education, the Navajo Nation.

Frank Tenorio, secretary-treasurer, All-Indian Pueblo Council.

Joe McDonald, representing Allen Rowland, president Northern Cheyenne Tribe.

Ferdinand Martineau, the Minnesota Chippewas.

Skip Skanen, executive director, Affiliated Tribes of Northwest Indians.

MAY 17, 1978

James T. McIntyre, Jr., Director, Office of Management and Budget; accompanied by Harrison Wellford, Executive Associate Director of Reorganization and Management, and Patricia Gwaltney, Deputy Associate Director for Human Resource Organization Studies.

Hale Champion, Under Secretary, Department of Health, Education and Welfare.

AREAS OF DISCUSSION

CITIZEN INVOLVEMENT

The committee intends that citizen participation in the implementation of Federal education programs be a major function of the Department.

In testimony before the committee, Dr. Carl Marburger, director of the National Committee for Citizens in Education, stated the importance of citizen participation for increasing confidence in schools and children's educational abilities. Lack of confidence in public schools is alarming. According to the National Center for Educational Statistics, the percentage of people with "hardly any confidence in people running education" has nearly doubled from 1973 to 1976. A 1976 Gallup survey found that 59 percent feel the quality of education is declining. Studies showing increasing declines in high school graduates' reading skills and SAT scores reinforce the lack of confidence in our schools. Even more alarming is that lack of confidence surfaced in the voting booth, where in 1975, 56 percent of all bond issues before the public were rejected.

Also, although in the next decade postsecondary school enrollment will decrease by 15 percent, and elementary school enrollment will decrease by 8 percent, costs are expected to rise by 65 percent.[1] Support from the public will be needed even more as schools will continue to be pressed financially.

Educational research, such as the widely read Coleman study, and subsequent studies based on the Coleman data note that when parents participate in school affairs their children do bettter in school.[2] Also, when children observe their parents having an impact on the school, their self-image becomes more positive. Enhanced self-image has been linked to student achievement in many studies.

In sum, it appears that increased parent and citizen participation in the education process not only assists in increasing confidence in the schools, but also has an impact on the decline in student performance.

Dr. Marburger's testimony pointed out the lack of attention in the Federal education system for concerns of parents and citizens:

> Aside from one person on the title I ESEA staff to handle parent advisory councils, there is no one in the entire HEW Education Division specifically designated to handle parent and citizen concerns.
>
> There is no parent representation and only token citizen and student participation on federal education advisory councils, according to a study NCCE recently conducted.
>
> There is no significant effort through the ERIC system or at the National Institute of Education to provide information directly to interested parents and citizens, despite a clear mandate to disseminate information about public education in such a way as to aid the people of the United States.

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[1] Oct. 12, 1977, testimony before the Senate Governmental Affairs Committee by Dr. Carl Marburger, director of the National Committee for Citizens in Education, part 1, hearings, Department of Education Act of 1977; Marburger reference to NCES, "The Condition of Education," p. 157.

[2] Ibid, Marburger testimony, p. 30.

> **The force of many provisions in education law about citizen participation has been dissipated by the lack of a coherent policy governing this issue and the lack of consistent enforcement of the provisions.**
>
> **The present scattering of education programs all over the government is confusing, and it is difficult for an outsider to identify, let alone reach responsible officials.[3]**

Already existing with respect to certain education laws are provisions for citizen participation, although there is no coherent policy governing the issue and no consistent enforcement of the provisions.

Student participation was also discussed in hearings before the committee. Lawrence S. Zaglaniczny, executive director of the Coalition of Independent College and University Students, stated in testimony before the committee, "in the past students have not been included very much in the decisionmaking process."

Both Mr. Zaglaniczny and Joel Packer, legislative director of the National Student Lobby/National Student Association Coalition, suggested the need for a unit which would allow students to be consulted on decisions affecting them and to bring student ideas from across the Nation into the decisionmaking process of the Department.[4]

Their testimony supported the need for increased student involvement and input. Mr. Zaglaniczny stated:

> At the present time, there are no formal channels for the views of the 11 million students enrolled in institutions of postsecondary education to be heard.[5]

He suggested that students be represented on the National Advisory Committee, originally proposed in S. 991, and that the commission conduct studies and produce reports on the condition of the involvement of students and parents in educational decisionmaking at the State, local, and national level. During the committee markup, Senator Percy added the word "students" in several areas of the bill to insure that students would be actively involved in the participatory process.

S. 991 provides a mechanism where input can be provided from among citizens, including parents and students. One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required by law and to encourage the involvement of parents, students, and the public in the development and implementation of the Department's programs.

The committee suggests the Secretary consider establishing an Office of Citizen, Parent and Student Concern to perform this public participation function. OMB Director McIntyre's testimony before the committee recommended such an office. This office could be the public's access point to the Department. It would be an effective means for insuring citizen and parent participation in Federal educational programs and for rebuilding public confidence in education. If such an office were created, it would be responsible for monitoring the enforcement of parent and citizen participation provisions now in law and informing the public of opportunities to participate in educational policy determination. It could identify program authorities and funds that could or should be used to encourage parent involvement, and assess the effectiveness of parent involvement strategies.

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[3] Ibid.

[4] Testimony of Lawrence S. Zaglaniczny, executive director, Coalition of Independent College and University Students, before the committee, Mar. 20, 1978, transcript, p. 6.

[5] Ibid., p. 23.

Already existing within the Office of the Commissioner of Education are several offices of special concern (for example, offices for minorities, women, and the handicapped). These offices could be consolidated in this Office and benefit from the resulting coordination and increased visibility. A 1977 study by the Education Commission of the States concluded that Hispanics are consistently below their contemporaries in the rest of the Nation in reading, science, mathematics, social studies, and career development. A unit within this Office for Hispanic Affairs could insure that the Hispanic community is involved in matters of interest to it and could monitor and evaluate existing requirements to insure that Hispanic participation occurs where the law warrants it.

Some of the specific functions this Office could perform would be the following:

(1) Analyze and assess programs administered by the Department to identify current parent, student, or citizen involvement responsibilities, and identify current materials technical assistance that can be used to increase their involvement;

(2) Assess, and report to the Secretary on the implementation of parent, student, or citizen involvement provisions in current law or proposed legislation, and make recommendations concerning the analysis and assessment of this involvement. The Office could be used by the Secretary as a vehicle for coordinating the numerous parent, student, or citizen appointments to departmental boards, commissions, or other panels;

(3) Provide assistance and consultative services to program staff in developing appropriate means for public involvement;

(4) Serve an ombudsman-type function by receiving and channeling for proper attention complaints, grievances, or other input from the public within the Department. This could make the Department aware of the needs of parents, students, and citizens and their involvement in the educational process;

(5) Serve as liaison with education advisory committees, the Federal Interagency Committee on Education, the Intergovernmental Advisory Council on Education, and the Assistant Secretary who has responsibility for intergovernmental affairs. Thus, stronger institutional community ties could be achieved by an effective mechanism responsible for achieving increased citizen involvement in the Department's programs and activities;

(6) Consult with various entities within the Department, such as the Office for Educational Research and Improvement, which are engaged in research or studies pertaining to parent, student, or citizen involvement in education; and

(7) Engage in the dissemination of valuable information on opportunities for parent, student, and citizen involvement in the Department's administration and policy development processes.

The committee believes such an Office, if created, should be at a sufficiently high level in the Department to insure its maximum usefulness and effect. Parent, student, and citizen involvement must cut across all functions of the Department for it to be successful and to rebuild lost confidence in education.

OFFICE FOR CIVIL RIGHTS

A major purpose of the Department is to continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities. The Department will assume responsibility for effectively carrying out the Nation's civil rights laws in education. The Secretary of Education will provide for the effective administration of civil rights laws.

S. 991 provides for the education components of HEW's Office for Civil Rights to be moved into the new Department. The education-related civil rights functions will be concerned with such provisions as title VI of the Civil Rights Act of 1964 (racial and ethnic discrimination); title IX of the Education Amendments of 1972 (sex discrimination); section 504 of the Rehabilitation Act of 1973 (discrimination against the physically and mentally handicapped); Executive Order 11246 (employment discrimination on the basis of race, color, religion, sex, national origin); and Indian preference functions of Public Law 93–638 (Indian Self-Determination Act).

The progress in civil rights enforcement in education during the past 18 years has led to substantial improvements, but much remains to be done.

The transfer of HEW's education-related civil rights responsibilities provided for under S. 991 is fully consistent with a mandate first expressed in title VI of the Civil Rights Act of 1964 that all Federal agencies assure nondiscrimination in the programs they administer. In order to implement this mandate effectively, organizational arrangements within the new Department will include:

> The creation of an Office for Civil Rights, independent of the Department's programs, whose director will report directly to the Secretary.
>
> The designation of the director of the office at an executive level IV position, and appointed by the President with Senate confirmation.
>
> A requirement that the Director for Civil Rights be delegated authority by the Secretary for insuring that all civil rights laws are enforced in all program units of the new Department, and a prohibition against any redelegation of this authority to any official not directly responsible to the Assistant Secretary.
>
> A requirement that the Director prepare and transmit directly an independent report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report would include a statement concerning the Director's plans and recommendations to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

These proposals will assure adherence to civil rights enforcement within the program units of the Department. Presently, the Director of HEW's Office for Civil Rights performs at a GS–18 level. This position is not Presidentially appointed, nor subject to Senate advice and consent. The increased status assigned to the function by

S. 991 will (1) improve the ability to recruit high-level individuals; (2) demonstrate the importance the Federal Government places on civil rights enforcement in education; and (3) assure that the head of civil rights enforcement is accountable to the President and to Congress, as well as to the Secretary.

By including in the Department of Education certain education and related programs not now under HEW's jurisdiction, the Federal Government will be better able to promote equal educational opportunity. The Department of Education will be responsible for civil rights enforcement not only in those programs presently in HEW, but also in certain transferred programs now scattered across other departments and agencies, such as USDA's school lunch and related programs, BIA schools, DOD overseas schools, and Justice's student loan programs.

HEW's Office for Civil Rights estimates that approximately 80 percent of its employees work on education-related responsibilities. This proportion of activity would be transferred to the new Department. In order to insure the Federal Government's commitment to guarantee and secure the basic education-related civil rights of all citizens, the Office for Civil Rights must be staffed adequately to carry out its responsibilities. Under the President's fiscal year 1979 budget proposal, it will have approximately 1,500 staff.

In addition to the concern expressed for adequate and qualified staff in education activities, adequate staff for the health and welfare areas is also of concern.

During the April 14 hearings on the bill, Senator Percy specifically requested from the administration whether additional staff would be required to handle civil rights activities in health and welfare and what would be the effect of the transfer on the effectiveness of civil rights activities in the areas of health and welfare. James McIntyre, Director of the Office of Management and Budget, responded that this transfer would enhance civil rights activities in the health and welfare areas:

> These areas have been dwarfed by education within HEW; in the Department of Health and Welfare they would clearly be given the greater attention they deserve.[6]

In addition, he said:

> It may be necessary to add some staff to handle the civil rights activities in the health and welfare areas.

Mr. McIntyre assured the committee that additional staff would be requested of the Congress if they are needed for health and welfare enforcement.

During the course of its deliberations on S. 991, the committee identified several other issues related to civil rights enforcement that were not appropriate for resolution within the context of this act. Nonetheless, it does have concerns about each of the issues, and expects the Secretary of Education, working with other executive branch officials and appropriate congressional committees, to deal with them in carrying out his or her civil rights responsibilities. These concerns are with respect to the following areas:

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[6] Letter of June 16, 1978, to Chairman Abraham Ribicoff by James T. McIntyre, Jr., Director, Office of Management and Budget.

1. Staffing

OCR must be staffed adequately to carry out its duties. OMB estimates that 1,500 staff will be transferred from HEW's Office for Civil Rights to the new Department's OCR. Civil rights groups have contended that this may not be adequate, especially in light of recent court orders, most notably *Adams* v. *Califano*, and in light of the additional responsibilities which OCR will inherit as a result of the non-HEW education programs placed in the new Department. The committee is not prepared to make a judgment on this issue at this time. It does note, though, that OMB Director McIntyre committed himself in his July 10 letter to Chairman Ribicoff to review OCR's staffing needs within 1 year after the Department's creation "to be certain that the office is capable of carrying out its mandate." The committee believes this is a reasonable approach, and expects OMB to report its findings of this review to the appropriate congressional committees when it is completed, but not later than 15 months after the Department's creation.

2. Compliance procedures

Too often civil rights compliance procedures have been unclear and left too wide administrative discretion. As a consequence, confusion and ineffective enforcement results. This has been true in education as well as in other areas.

The committee believes the creation of a new Office for Civil Rights in the Department of Education presents an opportunity to improve these procedures. It recognizes, as Director McIntyre pointed out in his July 10 letter to Chairman Ribicoff on the civil rights functions in the Department, that the President's reorganization project is conducting a major review of the enforcement of civil rights laws in all federally financed services, including education. It expects that this review will examine a range of options to improve compliance procedures. The committee is especially interested in recommendations that will improve the civil rights effort Government-wide. In particular, the committee expects the study to assess and report on ways to coordinate better enforcement efforts and the use of effective administrative procedures for suspension of Federal assistance in cases where there has been a finding of discrimination. The committee hopes the reorganization project can discuss its findings and recommendations with appropriate congressional committees early in 1979 so they can be taken into consideration during the implementation phase for the Department of Education.

3. Data

The committee believes that adequate data are essential to effective civil rights enforcement. Hence, nothing in this proposed legislation shall be construed to interfere with the enforcement of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law, nor to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to insure the complete and uniform enforcement of these acts among the recipients of the Department's programs.

At the same time, however, OCR must consistently review its data requests in the interest of limiting paperwork. OCR should, in order to help meet this objective, coordinate its information requests with other agencies in and out of the Department, to make sure it is not asking for data that already exists or will be collected, or to see if modifications of non-OCR data collection systems could provide a more effective and less burdensome means of meeting the necessary enforcement data requirements. After such coordination, however, the committee believes OCR should have the authority to appeal directly to the Office of Management and Budget the right to request any data it determines are needed to enforce the law in such cases where other agencies have tried to delay or reduce OCR's collection capacity, or have refused to accommodate civil rights data needs in their own systems, during this coordination process. The Director should specifically identify any problem he or she has in collecting data in OCR's annual report to Congress, and suggest recommendations to solve these problems.

4. *Legal staff*

As previously noted, OCR is a law enforcement agency and, as such, should have at its disposal an adequate legal staff to help it carry out the functions, powers, and duties of the office. The Secretary must insure that legal staff paid for with civil rights' funds should only work on civil rights issues.

The OCR Director should have the authority to select, appoint, and employ such officers or employees, including an adequate staff of attorneys, as may be necessary to carry out the functions, powers, and duties of the office. In particular, the legal staff in both the regional and national offices, which is paid for out of the Office for Civil Rights budget, should report to the Director or his or her designee.

The Director, as part of his or her annual report to the Congress, should report on the adequacy and availability of the legal staff at OCR's disposal. OMB should also report to the Congress on this issue in its report on OCR staffing referred to earlier.

During the 6-month implementation phase for creating the Department, the Secretary should work closely with interested groups and individuals concerned with education-related civil rights. Careful attention should be given during this process to addressing the needs of all groups, especially blacks, Hispanics, Asians, women, the handicapped, and the aged. The committee suggests the Secretary investigate the feasibility of setting up a branch of the Office which would be concerned with the protection of the special and unique rights of American Indians, Alaskan Natives, and Aleuts.

The establishment of the Office for Civil Rights provides an opportunity to improve current procedures. The active involvement of those involved in insuring the achievement of equal educational opportunities will be needed. Therefore, these individuals both in and out of government should be consulted to obtain suggestions for possible improvements that could be made during the transition.

The committee expects the Office of Management and Budget will exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and expects the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

DEPARTMENT ROLE IN ELEMENTARY AND SECONDARY EDUCATION

S. 991 provides for the establishment within the new Department of an Office of Elementary and Secondary Education to be headed by an Assistant Secretary for Elementary and Secondary Eduction. The committee estimates the new Office will administer more than $6 billion for education programs and have an estimated staff of 864. Since the 1960's, primary Federal education effort has been to increase access to education and to help move toward equal education opportunity for all Americans. The Office of Elementary and Secondary Education will continue this effort by supplementing and complementing State and local government's efforts to eradicate educational inequity and to insure economic productivity.

Although the lives of more than 48 million students in elementary and secondary day schools are touched by the programs established by the Elementary and Secondary Education Act, the direction and administration of these programs is currently assigned to a number of officials buried within the U.S. Office of Education structure. There is little apparent effort by these officials to coordinate these programs to most effectively meet the needs of students in their communities and classrooms.

By placing these programs in the new Department under the jurisdiction of an Assistant Secretary for Elementary and Secondary Education, the committee believes that coordination for better delivery of Federal services to students, schools, and local education agencies can be achieved. A highly visible Assistant Secretary should be accessible and responsive to concerns of local school officials, teachers, parents, and students. An Assistant Secretary can better direct programs officers in streamlining delivery and will have authority to institute delivery procedures which are responsive to the needs of local communities. An Assistant Secretary can oversee the total process of administering Federal education program in such a way that the dollars Congress intends to be expended on actual program operation will go to schools where teaching and learning take place, rather than be squandered on administrative functions in the Federal and State bureaucracies.

This office would be expected to administer such programs as the following:

Title I of ESEA

Title I of ESEA accounts for 47 percent of all Federal elementary and secondary spending. It provides grants to local school districts on a formula basis to help them improve their educational programs to meet the special needs of educationally disadvantaged children. In addition, grants are made to State agencies for the education of handicapped children, for dependent and neglected children, for orphans and juvenile delinquents in State institutions, and for children of migratory workers.

In recent years, the title I program has begun to generate a substantial impact in improved reading and math skills among disadvantaged youths, showing month-for-month gains in reading achievement nearly double that experienced by the general school population and

50 percent greater than that experienced by disadvantaged children not served by title I. Program evaluations funded by HEW and a 3-year evaluation of the program conducted by the National Institute of Education explain those successes as the result of an increased capacity on the part of local education agencies in the practical art of educating the disadvantaged population.

In spite of these successes, only 45 percent of the eligible title I children are being served. An Office of Elementary and Secondary Education will provide an administrative structure which can assure that the funds appropriated actually reach the classroom level where they may be used to provide educational services to disadvantaged youths.

Support and innovation

The consolidated programs contained within "support and innovation" grants consist of (1) supplementary educational centers and services; (2) strengthening State and local education agencies; (3) dropout prevention projects; and (4) school nutrition and health services. When the Congress consolidated these various programs into title IV of ESEA (in Public Law 93-380), one of the primary purposes of that action was to reduce paperwork and regulations and to provide greater flexibility at the State and local levels. However, the current Office of Education has not yet fully restructured its operation to deal effectively with this consolidation. As noted by Senator Henry Bellmon in testimony before this committee, such failure by OE clearly "demonstrates how administrative organization at the Federal level can impede legislative intent." [7]

Bilingual education

The bilingual education program supports local classroom instructional projects and assists in developing State, local, and university capabilities for training bilingual school personnel. In addition, the program also provides resources for bilingual instructional material, and supports research and evaluation studies.

Currently, the bilingual program serves only about 250,000 of the estimated 3.5 million students with limited English-speaking ability. Recent studies have indicated that these students are generally below their peers in basic educational skills. Given the basic responsibility for bilingual education, the Office of Elementary and Secondary Education should work in close coordination with the Office of Research and Improvement, the Office for Civil Rights, and the Office of Postsecondary Education to ensure that the total education needs of bilingual students are being addressed.

Right to read

The right-to-read program provides facilitating services and resources to stimulate educational institutions, governmental agencies, and private organizations to improve and expand their activities related to reading. The long-range goal of this program is to promote functional literacy, meaning effective use of oral and written language which includes listening, speaking, reading, and writing. The Office of

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[7] Op. cit., Bellmon testimony, hearings, Oct. 12, 1977.

Education has estimated that between 40 and 50 percent of students in urban areas have reading problems: 90 percent of school dropouts are classified as poor readers; and 50 percent of urban unemployed young people are unable to read. A recent GAO investigation of the right-to-read program found little evidence of coordination between right to read and the other $1 billion worth of Federal programs designed to improve basic reading skills. By placing the program in an office handling the major elementary and secondary education programs, a real opportunity will exist for insuring that these Federal programs directed toward improving basic skills are not duplicative and that the funds expended for these programs have maximum impact.

Follow Through

Follow Through is designed to sustain and augment in primary grades the gains that children from low-income families make in Head Start and other quality preschool programs. Follow Through provides comprehensive education services, such as special instruction programs, health, and nutrition, which will aid in the continued development of children to their full potential. Follow Through will provide an organizational base in the new Office for a closer working relationship among elementary and secondary education programs and comprehensive preschool education programs.

School assistance in federally affected areas

School assistance in federally affected areas (impact aid) provides payments in lieu of taxes to school districts to compensate them for real property within the district which, because it is federally owned, yields no taxes to support the school system and because of impaction of students upon school facilities and operating budgets due to Federal activity. Impact aid was the first Federal legislation authorizing major support for elementary and secondary education. It currently serves 4,354 school districts located in 411 congressional districts throughout the Nation.

Emergency School Aid Act (ESAA)

ESAA is designed to assist local education agencies, public or nonprofit private organizations and institutions in the process of eliminating, reducing, or preventing minority group isolation and aiding school children in overcoming the educational disadvantage of minority group isolation.

In addition, programs such as the alcohol and drug abuse program and the libraries and learning resources program, might also be included in this Office.

DEPARTMENT ROLE IN POSTSECONDARY EDUCATION

American postsecondary education is a large and diverse enterprise enrolling more than 13 million students in some 3,000 colleges and universities, 4 million students in 1,000 community colleges and over 8,000 noncollegiate vocational postsecondary institutions. Higher education alone is almost a $50 billion a year enterprise which employs more than 600,000 instructional and research staff and 1.3 million administrative and support personnel. Of the estimated $22 billion Federal spending on education, approximately $9.6 billion is directed to postsecondary education.

The bill would establish an Office for Postsecondary Education, headed by an Assistant Secretary for Postsecondary Education, to assure that the needs and concerns of this major sector of education are represented at the highest levels of the Department of Education. The Office would have a staff of approximately 1,200 and have program spending authority in the approximate amount of $3.6 billion.

The need for a high-level spokesperson for higher education was discussed during the committee's hearings on S. 991. One fear raised by some in the higher education community was that a Department of Education might be dominated by elementary and secondary education interests. However, in terms of dollars expended, higher education and elementary/secondary interests are approximately the same. Both categories are funded near $4.5 billion. Dr. Sidney Marland, in testimony before the committee stated:

> While the higher education programs are fewer in number, they are substantially in parity in terms of dollars with elementary and secondary. (Marland, p. 328.)[8]

In response to a written question submitted by Senator Ribicoff to former U.S. Commissioners of Education Dr. Terrel Bell, Dr. Samuel Brownell, Harold Howe, II, Francis Keppel, Dr. Sidney Marland, and Dr. Sterling McMurrin requesting suggestions for balancing elementary and secondary and higher education interests, the overwhelming response supported the need for an Assistant Secretary or Under Secretary for Postsecondary Education.[9] Support for this position was also given by Robert L. Egbert, dean, Teachers College, University of Nebraska at Lincoln, on behalf of the American Association of Colleges for Teacher Education, the Dean's Network and Wilbur Cohen, dean of the School of Education of the University of Michigan.

The Department will become the lead Federal agency in coordinating Federal policies and programs designed to improve postsecondary educational opportunities in the nation. Promoting equal access to postsecondary education should be accomplished primarily by maintaining direct grant and loan assistance programs for qualified and needy students.

Major institutional assistance, with certain exceptions, would not be possible under current congressional authorizations. A notable exception is assistance to developing institutions. Also, the Department would be able to improve institutional capacities through a variety of special grant programs which respond to the specific educational needs of students or instiutions engaged in high quality educational or research programs.

The Department will also be expected to assist the growth and development of a variety of academic programs and related services offered at our Nation's public and private postsecondary institutions. Among the special programs requiring departmental attention and commitments are continuing education programs, lifelong learning library facilities and training programs associated with college instruction and research, counseling and community services, and institutional offerings relating to special services for individuals and groups underrepresented in higher education and certain technical and professional fields.

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[8] Op. cit., hearings, pt. 1, p. 328.
[9] Op. cit., hearings, pp. 270–317.

Characteristics of and changes in postsecondary education

Postsecondary education in this country is exceedingly diverse and extensive. Sectarian and private groups maintain and operate more than one-half of the Nation's 3,000 colleges and universities. Institutions of higher education serve many purposes and many different clients. Each of these institutions should be able to choose and pursue its own course. Department officials should guard against carrying out any practices which have the impact of homogenizing or standardizing policies and services developed by State, local, or private higher education officials and their governing boards or of intruding into the areas central to the autonomy of such institutions.

The Department should initiate procedures that recognize the changing characteristics in postsecondary education. There are significant changes occurring in postsecondary school enrollment. While current projections indicate only moderate increases in enrollment over the next decade, the impact of major changes in curriculum, expansion of student aid programs to middle-income families, and the doubling of part-time enrollment by 1986 may bring a larger increase in enrollment than currently projected.

Support for R. & D. at colleges and universities

Researchers and graduate students at colleges and universities are principal participants in the Nation's basic research effort. Approximately two-thirds of all Federal R. & D. efforts, or about $3.6 billion fiscal year 1979 OMB estimate), are obligated to colleges and universities. Federal agencies involved in basic research, such as NSF, NIH, the Departments of Defense and Energy, will continue their funding of the majority of the research dollars flowing to universities. Although the majortiy of the funds for research, evaluation, policy studies, and demonstrations will undoubtedly remain outside the jurisdiction of the Office of Post Secondary Education, the committee expects this Office to play a major role in assisting the research agenda for postsecondary education issues.

Role of the Assistant Secretary for Postsecondary Education

A primary responsibility of the Assistant Secretary will be to keep the Secretary and the Congress advised of trends in American postsecondary education. The Assistant Secretary will establish continuing reltationships with students, faculty, administrators, trustees, and other leaders to identify issues and problems and to make recommendations for improvements in Federal education programs affecting postsecondary education. Streamlining regulatory requirements and paperwork burdens, which currently hamstring many postsecondary institutions, should be one of the first orders of business.

The committee foresees the Assistant Secretary for Post Secondary Education as the leading figure in directing, coordinating and implementing departmental programs with respect to postsecondary student assistance, institutions and community colleges, and institutional support.

The bulk of the Department's funds for postsecondary institutions will support the several major programs of student financial assistance, which will be administered by the Office of the Assistant Secretary. Federal financial assistance to undergraduates has become a critical factor determining whether or not students from lower and middle income families attend a postsecondary institution. More than 82 percent of the Federal aid to postsecondary education includes grants and loans to students. Of this amount, 91 percent eventually goes to undergraduate institutions.

This act transfers four additional direct student aid programs to be grouped with approximately one dozen direct assistance programs administered by the Bureau of Student Fnancial Assistance in USEO. The Assistant Secretary will adminsiter all "need-tested" Federal student assistance programs. "Need tested" means that financial assistance grants and loans area warded according to the student's or his or her family's ability to pay the cost of posesecondary instruction, and the price of education at a particular college or university.

The Assistant Secretary should consider the benefits associated with subsequent consolidation and coordination proposals. Effective coordination within this Office will greatly enlarge the capacity for simplifying the application process and increase the Federal ability to minimize the cost of defaulted loans by an improved collection process. Most importantly, a single agency will be able to analyze Federal student loan trends and problems in terms of longrun indebtedness to the student and problems in terms of longrun indebtedness to the student and his or her family and in terms of grants programs directed toward equal education opportunities at the postsecondary levels.

In addition, the Assistant Secretary will be responsible for coordination of Federal programs of financial assistance to students at the undergraduate and the graduate and professional levels. Such coordination is essential to reduce the complexity of information on the various specialized scholarship, fellowship, and loan programs conducted by other Federal agencies, and to provide to the greatest extent possible common conditions and criteria for eligibility, application, award, and administration. The Assistant Secretary will also be responsible for administration of the vorious authorities which provide categorical program support for postsecondary institutions to achieve stated objectives.

Analytic activities should concentrate on the distribution of opportunities in postsecondary education, on how students respond to those opportunities and on a range of issues relating t othe extent to which Federal student financial assistance fosters the continuing vitality of postsecondary institutions, including 2-year community colleges, 4-year public and private colleges and graduate-level research institutions and programs. Thus, an important function of the Assistant Secretary's Office will be to evaluate the impact of these and other Federal programs on the various sectors of postsecondary education and to identify problems in their administration (including measurement of the burdens of Federal programs and regulations).

The committee also suggests that a director for community colleges report directly to the Assistant Secretary. Because community colleges now constitute a major segment of postsecondary education, such a representative should have direct access to this Assistant Secretary.

OFFICE OF OCCUPATIONAL, ADULT AND COMMUNITY EDUCATION

The creation of the Office of Occupational, Adult and Community Education, headed by an Assistant Secretary, will provide needed visibility, representation, and effective administration for Federal vocational, adult, and community education assistance to the State and local programs, which constitute many times the magnitude of Federal efforts in this field.

Today, over 15 million American children are involved in vocational education. Youth with more education who have less work experience are found to earn substantially more than their counterparts with less education. Adult literacy goes hand in hand with job stability and income continuity. Yet less than 5 percent of adults eligible for basic and secondary education receive serious services.

Because Americans have more leisure time due to advancing technology, education is needed to prepare our citizens for several jobs during their lifetimes. Studies show more than 75 percent of adults in the United States are interested in some form of continuing education. The elderly, and women, especially, seek new educational opportunities.

Schools increasingly are becoming important vehicles for the delivery of services to citizens by using valuable school facilities and costly educational services efficiently with related community services, yet less than 10 percent of the 16,000 American school districts have opened the schools to recreation and community services use. These schools which have opened their doors to the community are involving the people of that community in a total educational program. These schools offer recreation, public health, nutrition education, and other services to citizens of all ages and special services to the handicapped. They are put into round-the-clock service where local communities determine the needs that exist. Thus, community education programs and full use of schools by the community reduce taxpayer costs and promote increased community involvement.

The creation of this Office will provide the necessary administrative structure capable of assisting States and localities in delivering effective education and training and adult community services. The Office will be expected to be involved in perceiving changing trends in education and administering programs which prepare inidviduals for continuous education throughout their working lifetimes.

At the Federal level, this Office will effect a partnership between education programs with occupational outcomes in the Department of Education and manpower utilization programs with significant training components in the Department of Labor. While youth education and employment constitute a primary focus of the work of this Office, preparation of adults and older Americans for access to education and work would be a priority mission as well.

At the State and local levels, this Office will provide programmatic assistance in achieving a blend of vocational, adult, and community education programs. This blend, in turn, will help to attract, retain, and serve private sector economic enterprise, to improve the quality of life and to coordinate education and work programs. With its focus on concrete skills and performances, the Office will promote exchanges between the schools and the larger community through provisions of grants to States and localities and by dissemination of the exemplary programs currently under development or in operation.

The Office will also serve to promote confidence in and access to the schools by the policymakers and the citizens of each community. The committee notes that respected national population surveys record more than half the Nation as believing we spend too little on education but indicating as well that confidence in school personnel has declined in recent years. With declining enrollments, surplus facilities, and strained resources affecting the long-term prospects for effective American education, the mission of this Office will be to chart the most cost-beneficial, community-responsive link between education and occupation, on the one hand, and school and community, on the other.

The Office's programs would have a fiscal 1979 authorization of over $725 million and would utilize a staff of approximately 236.

In light of the creation of this new Office, the existing functions of the Bureau of Occupational and Adult Education would be located within it and the present Bureau would be abolished. Thus, the new Office would administer the programs now being administered by the Bureau of Occupational and Adult Education. These programs would include those relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. The community schools and community education programs presently located in the Bureau of Occupational and Adult Education would be established prominently within the new Office to be concerned with school-community linkages and would administer and coordinate programs authorized or mandated in a wide range of associated legislation.

VOCATIONAL REHABILITATION

S. 991 establishes an Office of Special Education and Rehabilitative Services within the Department to be administered by an Assistant Secretary for Special Education and Rehabilitative Services. The bill transfers the Rehabilitation Services Administration (RSA) and the Office for Handicapped Individuals (OHI) to the new Department. It consolidates these entities with the Bureau of Education for the Handicapped (BEH). BEH is part of the Education Division of HEW and is being transferred in section 301 of the bill.

The Office of Special Education and Rehabilitative Services would administer functions presently administered by the Commissioner of RSA under the Rehabilitation Act of 1973 and functions administered by BEH under the Education of the Handicapped Act. In addition, it would administer OHI which was authorized by the Rehabilitation Act of 1973 but is not presently administered by the Commissioner, and it will administer the Randolph-Sheppard vending facility program, which is administered by the Commissioner of RSA but was not authorized by the Rehabilitation Act of 1973.

The new Office will not administer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disability programs.

The legislation provides for the transfer to the Office of the following functions:

Rehabilitation Services Administration

RSA is presently located in the Office for Human Development Services within the Department of Health, Education, and Welfare. The basic purpose of the vocational rehabilitation programs which RSA administers is to provide a comprehensive program of rehabililitative services for physically and mentally handicapped persons whose disability substantially impedes employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

There are essentially six program areas that are administered by RSA and are being transferred into the new Department. The program areas are: Basic State grants, innovation and expansion, service projects, research, training, and the Randolph-Sheppard vending facility program.

Basic State grants for rehabilitation services.—The Federal Government provides grants to States to provide the vocational rehabilitation services needed by handicapped individuals to enter into or return to the world of employment. The grants are used to provide the following services: Counseling, referral, placement, vocational and training services, interpreter and reader services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

This program constitutes the bulk of RSA's programing responsibility. It receives by far the largest portion of RSA's total budget.

Innovation and expansion.—This program provides State vocational rehabilitation agencies with limited risk capital to try innovation and expansion activities and services which would have significant impact on the vocational rehabilitation of severely handicapped individuals.

Service projects.—This program includes various special service projects which aim at improving the ability of the severely handicapped to work in very specific areas. The projects are: Project and program evaluation, projects with industry, grants for construction of rehabilitation facilities, technical assistance, vocational training services, facility improvement, special projects for the severely handicapped, handicapped migratory agricultural and seasonal farmworkers, Helen Keller National Center for Deaf-Blind Youths and Adults, and client assistance projects.

Research.—This program heading includes two projects.

The first is international research and training activities. Project grants are made to international and domestic public and nonprofit agencies and organizations, and, to a large extent, institutions of higher learning. The grants go toward developing and applying new knowledge to improve the quality of services to the handicapped, leading to maximum participation in gainful employment.

The second project is rehabilitation research. In this case the grants go toward developing new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new methods of providing rehabilitation services.

Training.—Project grants are directly awarded to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, again to a large extent to institutions of higher learning, to provide academic and inservice training in a broad range of rehabilitation professions which contribute to the vocational rehabilitation of the severely physically and mentally disabled.

Randolph-Sheppard vending facility program.—This program is supported by cooperative use of State-Federal vocational rehabilitation funds to pay for staff, vending facility equipment, day-to-day management services, et cetera, to provide employment opportunities for licensed blind vendors on Federal and other property.

Bureau of Education for the Handicapped

BEH is presently located in the Office of Education within the Department of Health, Education, and Welfare. It is the principal agency for administering and carrying out programs and projects relating to the education and training of the handicapped as authorized by the Education of the Handicapped Act, and the Education for All Handicapped Children Act of 1975.

There are essentially seven program areas administered by BEH which are being transferred into the Department. These program areas are: State assistance; special population programs; regional vocational, adult, and postsecondary programs; innovation and development; media and resource services; special education manpower development; and special studies.

State assistance.—Under this general program heading are three more specific projects. The first is the State grant program. The Education for All Handicapped Children Act provides that all handicapped children must be provided educational and related services that are free, appropriate, and individualized. To assist States and outlying areas in meeting the mandate of this act, this program makes grants to help defray excess costs associated with the education of handicapped children at the preschool, elementary, and secondary levels.

The second program concerns funding of deaf-blind centers. This program aims at helping deaf-blind children achieve their full potential for communication and adjustment within society. The program supports regional centers which provide educational and therapeutic services, medical diagnosis and evaluation, and family counseling to deaf-blind children and their families.

The third program is preschool incentive grants. This program seeks to stimulate State and local education agencies to develop and expand educational services to handicapped preschool children, aged 3 to 5, by providing grants to States based on the number of children being served.

Special population programs.—There are two projects contained within this program heading. One of these is the severely handicapped project. Contracts are competitively awarded to State departments of special education, intermediate and local school districts, institutions of higher education, and other public and nonprofit private agencies, to establish and promote programmatic practices designed to meet the educational and training needs of severely handicapped children and youth, in order to make them independent.

The second project is early childhood education. This project awards grants and contracts to provide models for the delivery of educational services to preschool handicapped children.

Regional vocational, adult, and postsecondary programs.—This program provides assistance to publicly supported educational institutions to promote the development and operation of specially designed or modified programs that offer vocational, technical, postsecondary, and adult educational opportunities for handicapped persons.

Innovation and development.—Grants are made to improve educational opportunities for handicapped children under this program. It supports research and development activities to improve the effectiveness and efficiency of the educational system for these children through research into critical issues, the development, validation, and dissemination of alternative approaches to problems specific to the education of the handicapped.

Media and resource services.—There are three projects grouped under this heading. Media services and captioned films supports grants and contracts to State and local education agencies, institutions of higher learning, and other public and nonprofit private agencies, to help provide handicapped learners with special educational materials.

Another project is the establishment of regional resource centers which offer training for personnel in special education skills, technical assistance in the development of State plans to serve the handicapped, direct referral services, and assistance to local educational agencies and State educational agencies in adopting models of multidisciplinary referral education services.

The last project under this program heading is recruitment and information. Its purpose is to support the dissemination of information about available programs, services, and resources for the education of handicapped children and to provide referral services to parents, teachers, and other interested groups seeking to appropriate educational programs for their children. In addition, recruitment efforts are funded to encourage people to enter the field of special education.

Special education manpower development.—Annual grants are made, under this program, to State education agencies and institutions of higher education to assist them in developing and improving training programs for educational personnel for the handicapped.

Special studies.—These special studies are mandated to measure and evaluate the provision by States to all handicapped children of a free, public, and appropriate education as required by the Education for All Handicapped Children Act of 1975 and to enable the Commissioner of Education to respond to the legislative requirement to annually assess the implementation, impact, and effectiveness of the law. These studies can be conducted by the Commissioner directly or by grant or contract.

Office for Handicapped Individuals

OHI was provided for by the Rehabilitation Act of 1973. That act authorized the Secretary of HEW to provide a central clearinghouse for information and resource availability for handicapped individuals through the evaluation of systems within HEW, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources which provide information and data regarding the location, provision, and availability of education services and training programs for handicapped individuals.

The committee believes that with the transfer of RSA and BEH to the new Department the resource availability, data collection, and informaiton which OHI could draw on in HEW, as addressed by the Rehabilitation Act, will no longer be in HEW. The primary services for the handicapped as they relate to education will be in the Department of Education. The ties the Office for Handicapped Individuals has with RSA and BEH will be severed if it is left in the Department of Health and Welfare. The committee recognized the necessity of maintaining these ties and therefore transferred the Office for Handicapped Individuals, and its functions, to the new Department to be consolidated with RSA and BEH in the Office of Special Education and Rehabilitative Services.

Committee analysis

After analyzing the programs which RSA and BEH administer, the committee believes it makes good administrative sense to consolidate these two agencies, with OHI, within one Office of Special Education and Rehabilitative Services in the Department of Education.

The committee realized an opportunity to make an organizational change in the existing fragmented programs that can initiate the development of a comprehensive national policy for the education of the handicapped.

There are several reasons the committee believes the vocational rehabilitation programs administered by RSA should be joined with the programs administered by BEH in the Office of Special Education within the Department.

The first reason is that there is a natural relationship between the programs BEH and RSA administer. An examination of the foregoing program descriptions will indicate that both entities have as their common mission improving the ability of handicapped individuals to adapt to society. The committee believes this relationship should be strengthened and that there should be a smooth transition between the general schooling a handicapped child obtains and the vocational education that same individual receives when he or she decides what type of career or vocation to pursue.

The committee also determined there is a significant overlap in the individuals served by BEH and RSA. Although BEH primarily educates children, a significant portion of its programing responsibilities trains adults who in turn train handicapped people. Programs such as the special education manpower development project illustrate this point. In addition, BEH administers programs which counsel the families of handicapped individuals. The regional vocational, adult, and postsecondary programs further illustrate the various age groups served by the programs BEH administers. On the other hand, RSA does not restrict itself to one age group either. It also trains nonhandicapped individuals of any age who in turn train handicapped individuals.

The committee believes placing vocational rehabilitation programs in the same office with programs concerned with the general education of the handicapped would—whether that general education is achieved through direct training of the handicapped or through the training of individuals to teach the handicapped—provide a continuum of habilitative services for the handicapped from birth through adulthood, as Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, has suggested in a letter to the committee dated May 12, 1978.

Another reason the committee favors placing vocational rehabilitation and the programs BEH administers in one office within the Department of Education is because the focus of these programs is educational. These programs emphasize training. Training is directly related to educational concerns. Moreover, their overall goal is to improve the ability of handicapped individuals to adapt to society. The committee believes this goal is one which the Department of Education will be broad enough to encompass.

Further, it is the committee's determination the goal of helping to make handicapped individuals become productive, to live with the same independence and dignity of nonhandicapped individuals, is much more compatible with the concerns of education than it is with health and welfare. Handicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of income. Health and welfare, on the other hand, as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis of economic status. Thus the committee believes the Department of Education will better be able to meet the needs of the handicapped as they relate to education.

Another factor the committee took into consideration in coming to the conclusion the vocational rehabilitation programs should be transferred and joined with both OHI and the programs administered by BEH is the significant number of States, 17, that presently administer their vocational rehabilitation programs from their educational agencies. This illustrates the proven compatibility between vocational rehabilitation and education.

While recognizing this existing compatability, it is not the intention of the committee to mandate that any State must administer its vocational rehabilitation programs from its education agency. Therefore, the committee added language to the bill which clearly states that nothing in section 208 shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

During its deliberations on this issue the committee learned of widespread support for the transfer of RSA and its consolidation with BEH in the Department from Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, the Council for Exceptional Children, the National Federation of the Blind, the American Coalition of Citizens with Disabilities (made up of 75 organizations), the National Rehabilitation Association and the State Administrators of Vocational Rehabilitation.

In conclusion, the committee believes the natural relationship which exists between the programs administered by RSA and those administered by BEH, and the relationship between both of these entities and OHI, merit their consolidation in one office. The committee further believes the focus of these programs is more compatible with the goals of education than with health and welfare. Therefore, the committee realized an opportunity to elevate the status, further the goals, and improve the coordination of the programs concerned with educating the handicapped by placing the Office for Handicapped Individuals, the Rehabilitation Services Administration, and the Bureau of Education for the Handicapped in one Office of Special Education and Rehabilitative Services within the Department of Education.

CHILD NUTRITION

The committee gave careful consideration to the transfer of the school lunch and related child nutrition programs from the Department of Agriculture, where they presently reside, to the new Department of Education.

Two days of hearings were held on the proposed transfer (March 20 and May 8). The nearly 20 witnesses who appeared before the committee represented a broad spectrum of school food service professionals, school administrators, nutritionists, and agricultural producers.

The importance of nutrition in our schools was formally recognized by the Congress in 1946 with the passage of the National School Lunch Act. Over the years, more child nutrition programs were added, and the Federal commitment now stands at nearly $3 billion annually. Today, the school lunch programs are universally available to all the Nation's schoolchildren.

USDA's Food and Nutrition Service presently operates five child feeding programs which will be transferred to the Department: school lunch, school breakfast, special milk, child care food, and summer food service. They are administered and funded through State education agencies, and provide cash assistance to enable schools and institutions to establish, maintain, or expand food service for children. USDA also buys surplus agriculture commodities for distribution to and use in school dining facilities.

The committee believes the child nutrition programs fit closely into place with the overall mission of the Department of Education. The new Department will be concerned with youth and their proper development as individuals. Good nutrition is integrally related to our children's growth and learning. Many studies demonstrate that a hungry or malnourished child does not learn or develop well. USDA Assistant Secretary for Food and Consumer Services Carol Foreman Consumer Services Carol Foreman told the committee:

> This important component of the new Department will represent a clear Federal statement that the responsibility to educate and develop our Nation's children extends beyond the classroom to a wide range of children's needs.

The school feeding programs operate entirely within the context of the school facility and the schoolday. They are as important a function of our schools as lessons, desks, or textbooks. The delivery system for these programs is the educational system. All of the school feeding programs are administered by the State departments of education. The Secretary of Education will be the Federal official who will have direct daily contact with that educational system. Because the Department of Education will be close to the educational delivery system, the programs can be expected to operate more efficiently.

Location of child nutrition programs in the Department of Education will help, most importantly, in forming a uniform administrative chain between Federal, State, and local governments. USDA's data and accounting requirements, funding cycles, compliance procedures, and eligibility standards all differ significantly from those for Federal education programs presently administered by the U.S. Office of Education. The result is burdensome paperwork and redtape for State and local education agencies. According to the Council of Chief State School Officers, the two Federal agencies requiring the most duplicative and time-consuming paperwork are USDA and OE. These top State education officials, who have primary responsibility for the administration of child nutrition programs at the State level, feel the transfer would result in beneficial savings in time and money.

Parallel administration of school nutrition programs on Federal, State, and local levels will foster coordination and standardization. Of all the Federal agencies and programs affecting education, both USDA and OE have the greatest impact and involvement. Placing their school programs under the same umbrella will increase the opportunities for the Secretary of Education to uncover duplication and waste in regulations and paperwork, and correct them.

In their 30-year history at USDA, the school feeding programs have not always fared well. Several administrations have attempted to undercut the programs in response to pressures from powerful agricultural producer interests, which often dominate in USDA. In the past, nutritionists have criticized the influence of "agribusiness" over the programs. In a major report to Congress last year by the General Accounting Office, "How Good Are School Lunches?"—a shortcoming in the performance of the school lunch program revealed by the GAO is the "conflict between the program's agricultural and nutritional provisions." The GAO also concluded the agricultural considerations that retard the school lunch program's nutritional effectiveness "appear to adversely affect student participation." While the current leadership of USDA has given strong support for these programs, the Department of Education can provide a more stable location for the programs.

Transferring child nutrition programs to the Department of Education offers the chance to give nutrition more attention at the Federal level. The Committee believes the creation of the Office of Child

Nutrition, headed by an Assistant Secretary, in the new Department will go far towards building in an institutional guarantee for strengthening the relationship between education and nutrition. The Assistant Secretary for Child Nutrition will be a position of strength and of advocacy within the executive branch.

Locating the child nutrition programs in the Education Department will facilitate coordination with other programs having nutrition components. The Congressional Research Service has identified more than 15 programs in the Office of Education which have significant nutrition responsibilities. Included are titles I and IV of the Elementary and Secondary Education Act, vocational education, consumer education, environmental education, and community education.

The committee believes the Department of Education will provide a sound base for the child nutrition programs. While some may argue educators are not receptive to nutrition programs in the schools, the facts tell a different story:

> Today, the school lunch program is available to more than 90 percent of all children in the United States.
>
> While the total number of U.S. schools has dropped nearly 40 percent since the program's inception in 1946, the number of schools participating in the programs has doubled.
>
> The number of children served by the programs has increased from 6 million in 1946 to more than 25 million today.

These figures indicate the success of the school feeding programs in our schools—rates that could not have been achieved without the encouragement and support of the education community. To date, the chief State school officials from the States of Washington, Georgia, Tennessee, Minnesota, Illinois, New York, Delaware, Alaska, Maryland, Pennsylvania, Michigan, South Carolina, New Hampshire, North Dakota, North Carolina, Wisconsin, Colorado, California, Nevada, Iowa, Utah, Wyoming, Hawaii, Alabama, and West Virginia, and also the top education officials of Puerto Rico and Guam, have communicated to the committee their strong support for school feeding programs and for their inclusion in the new Department. Further, the major national educational organizations are on record in favor of expanding the child nutrition programs and including them in the new Department.

The committee further feels the transfer of these programs will not affect the distribution of surplus agricultural commodities to the schools. It has recommended all authority and funding for the commodity program remain in USDA. Commodities will continue to be bought and shipped by two agencies in USDA: the Agricultural Stabilization and Conservation Service, and the Food Safety and Quality Service. To insure the needs of schools are considered in the commodity selection process, the legislation requires the Secretaries of Education and of Agriculture to consult with each other on the preferences of the Nation's schools for variety and quality in commodities. The committee is aware of recent reports of hard-to-use commodities—such as peanut lard or cranberry sauce—being oversupplied to many schools. Also of concern are the reports of the poor quality of some commodities received by the schools. There should be genuine and serious attempts made by both Departments to adequately meet the needs of schools in providing nutritious and balanced meals.

Coordination between the Department of Education and the Department of Agriculture will not become more difficult by the transfer of these programs. Presently in USDA, there are three different agencies involved in commodity support to the child nutrition programs—each operating separately and distinctly from the other. The new Office of Child Nutrition in the Education Department will simply assume the responsibility, now held by the parent agency in USDA, the Food and Nutrition Service, for providing information on the preferences of the schools to the two agencies which purchase commodities. The committee fully expects the relationships which now exist between FNS and the two commodity agencies already in USDA will carry over to the new Office of Child Nutrition in the Department of Education. This arrangement will resemble the relationship between HEW's Administration on Aging and USDA, where USDA now successfully purchases and transports surplus commodities to institutions which participate in the nutrition program for the elderly, but where primary operational and policy responsibility rests with HEW.

The transfer will not harm links between the programs and nutritional research functions in USDA. In fact, the child nutrition programs really have little to do with USDA's research capabilities. For example, it wasn't until this year—the first time since 1946—that USDA began to draw upon its nutrition research and start to suggest changes in the basic meals patterns for school lunches. These research functions in behalf of child nutrition programs currently comprise only a handful of person-years and can and should continue to be made available to these programs after their transfer. USDA now undertakes more research for programs outside that Department. Further, there are other Federal agencies conducing nutrition research, and the committee believes the child nutrition programs would benefit from their assistance. One of the most active is the National Institutes of Health. The committee is directing that the Department of Agriculture as well as other Federal agencies to make available their expertice to the Secretary of Education and the Assistant Secretary for Child Nutrition.

USDA's ability to effectively develop a workable food and nutrition policy will not be hindered by the transfer. The Committee believes the transfer of child nutrition programs to the Department of Education will not affect the basic mission of USDA, and should not be interpreted as a diminution of that Department. School feeding programs are no more central to the development of food and nutrition policy than are Armed Forces feeding operations, or cafeterias overseen by the General Services Administration. Almost $7 billion worth of nutrition programs will remain in USDA after the school lunch transfer, including nutrition research, food inspection, the Extension Service, domestic food assistance programs such as food stamps, and overseas food donation programs.

USDA will continue to be a strong Cabinet Department. The child nutrition transfer involves less than 1 percent of USDA's total staff. Budgetwise, USDA will be larger than six Cabinet Departments after the transfer, and equal in size to the new Department of Education. The Department of Agriculture will continue to be the "lead" agency in the Federal Government for food and agriculture.

The committee believes the Department of Education should have a strong nutrition education component. With increasing reports of more plate waste in the schools and the rising popularity of nonnutritional foods, the importance of nutrition education and better dietary awareness becomes critical. Traditionally, USDA has been reluctant to encourage States and localities to develop nutrition education in their schools. A Department of Education will be in a better position to develop and encourage nutrition education. The Department will encourage the development and dissemination to the schools of curriculums which deal with nutrition education and other life sciences.

Last year, Congress provided for a new, $27 million nutrition education program in the Child Nutrition Amendments (Public Law 95–166), where the Federal Government would encourage States and localities, through their State education agencies, to develop their own nutrition education efforts. The committee believes this program should be transferred to the Department of Education, which will have expertise in developing and recommending effective nutrition education strategies, curriculums, and information dissemination. The Nation's schools will be better able to broadly disseminate a successful nutrition education effort. The Education Department will be more familiar than USDA with the needs of the schools, and will be in a better position to expand our children's knowledge of nutrition.

The committee also believes the transfer of the nutrition education program will complement and supplement the large nutrition education efforts already ongoing in the HEW Education Division. The Congressional Research Service has identified the following programs in the Office of Education which have nutrition education components: consumer and homemaking education, vocational education, occupational home economics, adult education, school health and nutrition services for low-income families, centers and services for blind-deaf children, and programs for the education of handicapped children.

Finally the committee believes the transfer of child nutrition programs is important to the creation of an effective Department of Education. One important reason for establishing the new Department is that existing fragmented and scattered Federal education effort is in need of real consolidation. The present situation is one where the Nation's school officials are forced to go from agency to agency in the Federal Government to piece together their financial assistance package. USDA and the Office of Education supply most of the Federal aid that goes to our schools.

They also impose the most time-consuming, costly regulations and paperwork. A Federal Department of Education should, as much as possible, encompass the programs that primarily support our schools. Education is a broad activity which should not be limited solely to the classroom. Nutrition and school lunches are on important part of the school day, and the educational experience. Our students will benefit from the inclusion of USDA's child nutrition programs in the Department of Education.

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS SCHOOLS

The committee recommends the transfer of the Department of Defense (DOD) overseas dependents schools system to the new Department of Education, and believes their inclusion in the Department will allow for the improvement of the education of their students.

As the American role in world affairs grew after the Second World War, so did the need for providing a quality education for the dependents of military personnel stationed overseas. Today, there are 267 DOD dependents schools scattered across 24 different foreign countries serving approximately 135,000 students. The fiscal year 1979 budget estimate for the Schools is $307 million. Altogether, about 10,000 employees are involved in the school system.

Unfortunately, the DOD schools have never been fully statutorily authorized. In the more than 30 years of their "temporary" existence, the DOD schools' authorization has been contained in appropriations bills—normally less than a paragraph of legislative language. Direction and guidance from the Congress has come in the form of detailed committee reports.

The committee believes more attention and oversight is needed for this important school system. S. 991 provides, for the first time, a workable legislative base upon which to build. The legislation establishes an Office of Education for Overseas Dependent Children, to be headed by a high-level Administrator who will report directly to the Secretary of Education.

The schools will represent a major responsibility of the Department of Education. If located within the continental United States, the system would rank as the 12th largest among the Nation's public school districts. The quality of the schools should improve and prosper in the new environment.

The committee finds that the primary purpose and goals of the DOD schools are more in line with those of the Department of Education than the Department of Defense. Obviously, the primary mission of the Defense Department is not education. The schools' budgets are considered along with the rest of the DOD budget, where often there is a limited understanding of the intricacies of operating so large a school system. Although the immediate staff of the DOD schools is made up of professional educators, the top officials in DOD normally have little or no expertise in the field of education. The Department of Education, in contrast, will be the Federal agency having direct contact with in American education.

The DOD schools do not prepare its students necessarily for any purposes related to the military. The schools are regular American public and elementary public schools, serving children from kindergarten through high school. The expertise and research findings in education will be more readily accessible in the Education, not the Defense Department.

Further, the DOD schools should not, by any means, be isolated from the rest of American education. Locating the schools in the Department of Education would help ease the transition of its students to the public schools in the continental United States. There is considerable movement between the DOD and the American public schools. Terms of duty for most military personnel average about 3 years overseas. It is both necessary and desirable to provide a sense of continuity for students going from one system to another. The Department of Education will be more attuned to the ever-changing trends in American education, and provide the Administrator of the overseas schools valuable assistance in sensing, adjusting, and responding to these trends.

The committee expects the Secretary of Education will use his or her powers to make available to the schools the vast educational resources in the new Department. The Schools should be allowed to participate in a wide range of education programs not now open to them. The Secretary should make strong efforts to encourage the participation of the DOD Schools in school nutrition programs, vocational education programs, services for the education of the handicapped and gifted children, library and academic facilities improvement, research functions, and other programs which would benefit the Schools.

The transfer of the DOD schools should be conducted with a minimum of disruption. The legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. The continued efficient operation of the schools is very important, and will require a careful analysis before the transfer plan is actually designed and executed. During the transition period, the committee is directing the Secretary of Education and the Secretary of Defense to work closely and harmoniously to assure a smooth transfer of the schools and avoid any disruption to or deterioration of the education programs conducted in the schools. Section 505(a) insures the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer.

The committee believes the reorganization of the DOD schools which is currently underway should continue, and should not be disrupted during the transition period.

As the Secretary develops the plan for transfer of the schools, the committee is directing that such plan shall include recommendations for increasing parent, student, educator, military, and school administrator participation in the operation of the schools. The committee is concerned with the lack of a responsive, decentralized method in running the schools. The committee suggests the Secretary investigate the practicality and feasibility of the creation of an advisory board or commission, made up of parents, students, educators, school administrators, and the military, which could assume some measure of input over operation and policy responsibilities for the school system. Such a board would facilitate logistical support by including military personnel as members to insure cooperation by the various armed services and the local base commander. The board could act as an effective insulator to minimize the direct involvement in the future of the Secretary in the schools. And, the board would provide real opportunities for guaranteeing that parents, students, educators, school administrators, and military personnel would have substantial input in the policies of their schools, much in the same way State or local boards of education do in the continental United States.

The committee feels the transfer of the DOD schools to the Department of Education will broaden the scope of the Department, improve the quality of the schools, and most importantly, improve the quality of education for students who attend the schools. The Federal Government has a clear obligation to provide an education of equal or superior quality for the dependents of military personnel.

INDIAN EDUCATION

S. 991 provides for the consolidation of Federal Indian education functions and programs in a new Office of Indian Education in the Department of Education. The new Office would be headed by an Assistant Secretary for Indian Education.

Presently, two different Federal agencies have significant responsibilities for educating Indian students. The Bureau of Indian Affairs operates an extensive education effort for American Indians, Alaskan Natives, and Aleuts. Altogether, the BIA oversees some 220 elementary and secondary schools and three post secondary institutions serving over 50,000 Indian students at a cost of more than $162 million in 1978. In addition, the BIA has large grant programs for aid to public schools serving Indian people ($35 million) and for continuing education ($41 million). The Office of Indian Education in HEW's Office of Education also administers programs that give aid to public schools serving Indian students, and awards funds for special projects in elementary, secondary, and adult education. The total budget for this Office is approximately $60 million in 1978. It is important to note, also, that OE contributes large amounts of money to public school systems—more than $120 million in 1978—for educating Indian students under two primary grant programs: impact aid and ESEA grants for disadvantaged students. OE also contributes about $25 million per year for higher education assistance. Consequently, the total Federal aid to Indian edudcation is more than $500 million annually, split nearly evenly between HEW and BIA.

The legislation would transfer all education functions of the BIA to the new Office of Indian Education in the Education Department. Also, all functions of the Indian Education Office now in OE would be transferred to the new Office.

Generally, the committee believes the overriding reason for the consolidation is the disturbingly poor condition of Indian education. It progresses at a snail's pace under the BIA and OE. Achievement rates of Indian students are much lower than those of other American students. Today, more than 50 percent of Indian students entering elementary school will have dropped out by the time they reach secondary school. At the post secondary level, the Indian dropout rates exceed 75 percent. The quality of both BIA and public schools on or near reservations is extremely poor in most cases.

The Federal Government is obligated, legally and morally, to provide Indian people educational services of equal quality to those afforded other American citizens. But the BIA has a poor record of providing quality educational services to Indian people.

A review of the history of the past performance of the BIA will reveal little justification for leaving education programs in that agency. Education has not been a priority at the BIA for the last 100 years. The Bureau has institutional deficiencies which thwart the administration and development of an effective Indian education effort. Education is only one of several BIA area office functions and responsibilities. BIA area directors are often able to reprogram education funds to other unrelated uses. Many do not view education as an important responsibility. In the BIA organizational setup, the area directors report to the Assistant Secretary for Indian Affairs. The BIA Director of Education, based in Washington, has no authority over area directors.

The primary mission of either the Department of the Interior or the Bureau of Indian Affairs is not education. The internal budget processes of both the BIA and the Department have treated harshly Indian education in the past. There has been a discouraging lack of involvement of Indian people by the BIA in either budget considerations or long-term planning.

The committee also finds that the fragmentation of Federal Indian education programs between two agencies inhibits the development of a comprehensive strategy for Indian education. There is little, if any, coordination between the BIA and OE. The persisting poor condition of Indian education necessitates a cohesive remedial policy on the Federal level.

Further, this fragmentation means there is no, one high-ranking official in the Federal government who speaks for Indian education, or who has the clout to tackle these tough problems and challenges. Presently, there exists a Deputy Commissioner for Indian Education in OE, and a Director of Education in BIA. Both are submerged in their bureaucracies, and their voices cannot be strong. The job is particularly frustrating in the BIA, where there has been rapid turnover in the position of BIA Director of Education. Since 1966, the overall average length of tenure of the BIA Director has been just 9 months. Through the creation of the post of Assistant Secretary of Indian Education in the new Department of Education, one individual could focus in on the crucial problems still ahead in Indian education, and with this high-level position, individuals with high qualifications would be attracted to fill such an important slot.

The committee is concerned about reports that Indian people still have little influence or control over their education. Increased local control is vital to the success of Indian education. Indian representation on public school boards has been slow to develop. Under the BIA, fewer than 35 tribes have contacted with the BIA for school operations. The Bureau has slowly implemented the congressionally mandated policy of Indian self-determination in education. The committee feels strongly a major objective of the new Office of Indian Education in the Department of Education should be increased local control of Indian education by Indian people.

Postsecondary educational assistance to American Indians, Alaskan natives, and Aleuts needs more direction and development. Although some real gains have been made in recent years, still a disproportionately large number of Indian people do not go on to some form of higher education. In addition, the disturbingly high dropout rates indicate the BIA postsecondary education programs are poorly run. Transfer to the Department of Education should provide for a stronger, coordinated focus on Indian higher education problems and programs.

Of major importance is for the Department of Education to recognize the unique and special needs of American Indians, Alaskan Natives, and Aleuts. The committee is directing the new Department to recognize and respect the special legal relationship—the trust responsibility—which exists between the Federal Government and Indian tribes. The committee believes the creation of the new Office of Indian Education in the Department of Education will strengthen the trust responsibility. The prevalence of socioeconomic and educational disadvantage among Indians make the provision of adequate services by the Federal Government vital.

In our consideration of the legislation, the committee actively solicited the comments and input of more than 350 Indian tribes and organizations across the country. The legislation, as reported, goes far towards meeting nearly all of the Indian community's concerns.

Specifically, the bill sets up a distinct, tangible office within the Department devoted solely to the special concerns of Indian education. The Office and its Presidentially appointed Assistant Secretary will report directly to the Secretary of Education. Both will be on an equal footing with other educational interests in the new Department. The existing BIA education programs will be specifically transferred to the new Office, and will not be "lost" in the Department.

The legislation stipulates the transfer of Indian education programs to the Department of Education will not alter the trust responsibility. Again, the Department and the Secretary of Education are expected to recognize their special, legal, and unique requirements to meet the needs of Indian people. They are bound by law to respect the trust responsibility. The committee will be carefully monitoring the Department of Education's adherence to the trust responsibility.

The transfer of Indian education functions will not change the existing eligibility standards for both the BIA and the OE programs. Presently, the BIA serves only Indian tribes recognized officially by the Federal government. OE uses the same eligibility standard for its impact aid programs, but for other programs uses one that is much broader, and often includes Indians not federally recognized. While the committee sees the need for tightening the definition of "Indian" used by OE, it is not in our jurisdiction or our field of expertise to make a substantive policy change. The legislation forbids the changing of either definition by the transfer. The committee believes the issue of how to define an "Indian" is better left to the Indian people and the authorizing committees in Congress to decide. The committee expects the transferred BIA programs will continue to service federally recognized tribes exclusively.

The new Office of Indian Education will be governed by existing Indian preference laws in the hiring of its employees. The committee expects the Assistant Secretary for Indian Education will go to great lengths to promote Indian preference in the Office's programs and services, which would go a long way towards instituting more Indian control over Indian education. The Assistant Secretary should make strong efforts to select highly qualified Indian people to fill positions in the Office. The committee is aware of the problems created by sometimes restrictive civil service requirements in federally funded programs affecting Indian people. The Assistant Secretary and the Secretary of Education, in submitting their comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts, should make recommendations to Congress for improving the efficiency and effectiveness of personnel in Indian education services operated by the Federal government.

Great care should be taken in the selection of the Assistant Secretary for Indian Education. The committee expects such an individual will be of Indian, Alaska Native, or Aleutian origin. The President, in selecting a person for this important position, should consult widely with Indian tribes and organizations. The Assistant Secretary should have impressive qualifications and much experience in Indian education. The Assistant Secretary should be afforded sufficient latitude in the Department of Education to actively promote the interests of Indian education throughout the entire Department.

The legislation amends the Indian Self-Determination and Education Assistance Act to make its provisions fully applicable to the new Department. Self-determination is an important concept to the Indian people. It enables Indian tribes to contract services normally provided directly by the Federal Government and operate them on their own. The committee believes self-determination and the contracting authority are important and critical tools for instituting more local control of education by Indian people. The new Department is expected to cooperate fully with the law and encourage Indian tribes to contract these services. The Department and the Office of Indian Education should make special efforts to assist tribes with the necessary technical assistance to operate these programs. It is important that the contracting authorized under the Self-Determination Act be administered with as few burdensome restrictions as possible. The new Department should make sincere efforts to minimize contracting problems, such as making arrangements to cover startup costs and determine tribal funding needs in advance.

The bill directs the Secretary of Education and the Assistant Secretary to institute more local control of Indian education by Indian people. Primary policy responsibility for schools should reside with the local community. The committee believes the new Department should institute more direct funding of Indian education programs with as few strings as possible. Funds, functions, or programs administered by the Office of Indian Education in the new Department should not be channeled through State education agencies. A direct relationship between the Office and the tribes will result in fewer rules, regulations, and unnecessary paperwork.

S. 991 requires consultation and coordination between the two top Federal Indian officials—the Assistant Secretary of Indian Affairs in BIA, and the Assistant Secretary for Indian Education. The BIA will continue to be the "lead" agency in the Federal Government for Indian affairs. Important trust protection, advocacy, and natural resource functions would stay in the Bureau.

Indian tribes have a unique relationship to civil rights laws, and members of those tribes enjoy a special status. The special Government-to-Government relationship between the Federal Government and the tribes exempts Indians and Indian tribes from certain civil rights restrictions. Indian preference in personnel actions, for example, is based on this special relationship. At the same time, Indians as citizens are entitled to the protection of the civil rights statutes. The committee believes this special dual status requires a special expertise, and that the Secretary should consider establishing a separate division for Indian education in the new Department's Office for Civil Rights.

Finally, the legislation provides for a 3-year "phase-in" period for the BIA school system. It is important that the transfer of the operation of these schools to the new Department be conducted with little disruption and much consultation with Indian people. The bill calls for the development of a comprehensive study for effecting the transfer of the schools. The Assistant Secretary for Indian Education should make a strong effort to seek the advice and counsel of Indians, Alaskan natives, and Aleuts and involve them in planning for the transfer. In carrying out the transfer, the committee expects that all support services necessary for the effective and efficient operation of the schools be also transferred, including construction planning and oversight, general planning and evaluation personnel, and other incidental administrative and support personnel.

In conducting the comprehensive study of transfer, the committee directs the Secretary and the Assistant Secretary to fully investigate and report back to Congress the feasibility of and possible proposal for the creation of an advisory Indian education review panel. The committee believes there is a strong need for insuring Indian people's input into Indian education policies and programs at the Federal level. The proposal for an all-Indian board or commission should be developed in full consultation with Indian people and, if recommended, should be established as soon as is practicable. The committee has been impressed with the diligence of effort and expertise of the National Advisory Council on Indian Education, established by the Indian Education Act. NACIE provides a valuable service to the Congress in the form of an effective forum for the exchange of ideas and information. At the present, however, NACIE is primarily charged with advising the OE Office of Indian Education on its programs and services. The committee believes the possibility of using NACIE as the vehicle for advising and reviewing the policies of the entire new Office of Indian Education in the Department of Education should be considered.

The committee has assured all American Indians, Alaskan Natives, and Aleuts this proposed consolidation is not a move toward termination of the Federal trust responsibility. The legislation goes far to meet and safeguard their special interests. It is a renewed deep, and sincere effort to improve the quality of Indian education, and ultimately, the quality of life for Indian people. Throughout the findings, purposes, and functions sections of the legislation, the importance of tribal governments and Indian people in the process of education is emphasized. The committee is directing the Department of Education to devote special attention, and a good portion of its resources, to to the needs of Indian students.

SCIENCE EDUCATION

The Department will assume the administration of a number of science education programs presently located within the Science Education Directorate of the National Science Foundation (NSF).

S. 991 insures appropriate placement for the science education programs by transferring them specifically and intact to the Office of Educational Research and Improvement. Within such an organizational structure the science and technology programs would constitute approximately one-fourth of the R. & D. programs categorized and administered by this Office. The committee expects science education to be both a visible and substantial component in the new Department, as well as a special entity which will complement science and technology initiatives supported by the NSF and other science and research agencies.

Transfer of these programs will enable the Department to take an active role in assisting the improvement of the quality of science teaching in schools and in undergraduate postsecondary institutions, as well as in improving public understanding and science literacy among the general public. The Department will assume primary responsibility, not only for the specific science programs transferred, but for the conduct of studies, surveys, and evaluations relating to the quality of science teaching and learning and improved public understanding of science. Dissemination of science curricular materials and teaching practices should become a departmental priority.

A science education unit in the Department is expected to assist in enhancing the quality of school science programs and the quality of teaching and to eliminate unnecessary overlap between education programs supported by NSF and the authorities administered by HEW's Education Division.

The Education Division supports projects worth millions of dollars which deal with science education and curricular development (for example, environmental education, metric education, ESEA, and emergency school aid science and math projects) and supports research relating to teaching subjects including science, math, and the use of instructional technologies. Thus, apart from the NSF science education programs, the Department of Education will administer hundreds of millions of dollars for science-related and mathematics programs. The substantive quality of science and math curricular research and development programs will be assured by the direct involvement and assistance of scientists and science educators who will serve as staff, reviewers and consultants. The success of the Department of Education will depend a good deal on the extent to which scientists, social scientists, university researchers, and academicians participate in the Department's activities. These programs, along with those of science education, are expected to give strong impetus to science education in the new Department.

Declines in science achievement over the past decade have required renewed attention. Achievement in science, as measured by various national surveys and standardized tests, has steadily declined. Many science and mathematics teachers admit to having been inadequately trained. According to the recent report from the National Assessment of Educational Progress (NAEP), high school "youths continue their downward trend in science despite the ever-growing demands of a technological society."

A strong commitment to science education will necessitate the placement and support for a strong and visible organizational entity in the Department which concentrates attention and resources on science improvemet. This unit will be located within the Office of Educational Research and Improvement and parallel other major efforts which focus on basic and applied research, postsecondary education improvement, and other program units which report directly to the Assistant Secretary for Research and Improvement.

The NSF programs transferred in the legislation represent approximately $56.3 million out of the entire $77.6 million fiscal year 1979 request) for the Science Education Directorate in NSF and will require the transfer of no more than 90 personnel.

S. 991, as originally introduced, transferred the entire NSF Science Directorate to the Department. S. 991, as reported, is consistent with the President's proposal for reorganization. Only those programs aimed primarily at students and teachers in the elementary and secondary and undergraduate institutions will be transferred to the new Department. The programs which would remain at NSF include those aimed at recruiting and training scientific researchers, those programs requiring direct participation of scientists, and those which provide science information and assistance to citizen groups. The programs transferred are the following:

Teacher training.—These programs are primarily designed to assist in improving and updating the quality of experienced elementary and secondary school or teachers at all levels. Since the early 1950's, these workshops and institute-type programs have been extremely popular among teachers, and in 1979 some 18,000 persons will participate.

Student oriented.—These programs are directed at identifying, teaching, and involving (in laboratory and clinical settings) some of the Nation's most talented high school students In 1979, some 5,000 students will participate in these programs, many of whom will be minorities and females who will receive encouragement to enter scientific fields.

Institutional support.—These programs provide funds for improving institutional facilities and equipment, primarily at 2- and 4-year colleges, including undergraduate colleges which serve blacks and other minority groups.

Science education research and development.—These programs emphasize assistance in developing innovative curricula and technologies and designing science programs for all youths and adults, including those created exclusively for the gifted and talented in preschools, schools, and undergraduate institutions, or in nontraditional settings.

Public understanding of science programs.—These programs are designed to assist in improving the public's understanding of scientific principles and technological content which may be involved in broader public policy and political issues. These public understanding programs rely more on the use of television, radio, and museums than on traditional school programs. For example, Children's Television Workshop, the producer of "Sesame Street," will develop a science education series for children aged 8 to 12 in 1979.

However, certain public understanding of science projects, for example, those requiring a more direct involvement participation of the scientific community, will remain in NSF, as described below.

The transfer of the existing science education programs from the NSF to the Department will not have the effect of amending Public Law 81-507, authorizing the creation of the National Science Foundation and the Science Education Directorate. The NSF will continue to assume responsibility for strengthening scientific research and may initiate new scientific programs and projects which relate to personnel and institutional development and public understanding, when they draw upon the scientific expertise of that agency.

The NSF will maintain its primary educational function by continuing its support for fellowships and traineeships closely associated with graduate and postdoctoral research programs. NSF will also retain responsibility for special graduate fellowships and traineeships for students and faculty in minority institutions and for other efforts which provide support for underrepresented individuals, that is, ethnic minorities, women, handicapped persons, who have the desire and potential to enter scientific and research careers, or to enroll in graduate schools, colleges, and universities to pursue scientific careers. The National Science Foundation will also retain its responsibility for sponsoring basic and fundamental reseach that may relate to education and to human growth and development. Studies in cognitive development, linguistics, and those relating to various social science disciplines will continue to be promoted and funded by the appropriate Directorates within the NSF.

Project activities under the science and society program will continue to be administered in the Foundation, with the exception of certain activities relating to public understanding, which will be a shared responsibility among a number of Federal agencies. The science and society program is intended to bring about greater understanding and improvement to the relationship between the scientific and technological communities and to the larger society. Improving the public's understanding of complex science and technological principles and information often requires the direct involvement and participation of top scientific and technical expertise. As a result, the committee feels the NSF should not be discharged from this set of activities. Much of this effort helps to assure the involvement of the research and academic communities in contemporary debates on public and social policy. This effort provides important assistance to public-interest groups seeking scientific and technical expertise and also examines ethical and value issues in science and technology.

The committee shares the concerns which have been expressed over maintaining the quality and relevance of the content of science education teaching and materias, as well as those relating to general attitudes toward and appreciation of science and the work of scientists. Presently, there is a relatively high degree of public confidence in the abiltiy of scientists and technologists to solve some of society's major problems. The attitude that prevails in our Nation today about the importance of the work of the scientific enterprise and its professionals is due partly to the quality of science teaching and the attitudes toward science which schools and colleges engender.

However, the committee recognizes the problems associated with expressions of distrust and disenchantment, regarding the benefits of technological advancement and scientific research. Improvements in the quality of science programs in schools and educational activities directed to the general public can provide the general public with the background necessary to participate effectively in decisions affecting the work of the scientific communities.

The Department should work closely with NSF and with other scientific agencies, institutions, and associations to improve contacts between the scientific and nonscientific communities and between scientists and professional educators. Assurances in these directions will ultimately lead to improved public understanding of and appreciation for science.

NSF's enabling legislation requires the agency "to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government," and to evaluate "the research and education programs undertaken or supported by the agencies of the Federal Government." In carrying out these mandates, the NSF should monitor the science-related policies and efforts of the Department of Education, just as it monitors the research and science education programs of other Federal departments and agencies.

Philip M. Smith, Assistant Director of the Office of Science and Technology Policy, stated his view to the committee on the relationship of NSF to the Department of Education:

> The safeguard is that NSF would retain its current broad statutory authority for support of science education. NSF would complement Department of Education activities by focusing on innovative projects that tap scientific resources to invigorate the content of science education. A Department of Education could therefore provide NSF with new opportunities to initiate innovative and highly experimental activities needing testing prior to their application.[10]

NSF will continue to support basic or fundamental research relating to education and to initiate proposals for research, training, or developmental projects relating to education when it feels such an activity is in the national interest and within the scope of its mission and agency mandate "to promote the progress of science."

The committee urges the Secretary of the new Department and the Director of NSF in consultation with the Director of the Office of Science and Technology Policy to consider the creation of a special ad hoc committee to prepare immediately a policy guidance memorandum (memorandum of understanding) with respect to the roles of NSF and the Department in supporting science education activities in general and the specific policies and procedures for continuing and/or extending the science education programs transferred from NSF.

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[10] Philip M. Smith, testimony, hearings, before Senate Governmental Affairs Committee on S. 991, Apr. 18, 1978.

A more comprehensive strategy for examining ways to improve science education should also be initiated and prepared by an interagency group of specialists under the direction of the Federal Interagency Committe on Education, and with analytic support from the National Center for Education Statistics. Such a strategy should consider an overall assessment of the quality and availability of resources involved in teaching and communicating scientific information. It should identify the amount and quality of Federal, State, and local resources directed to science education in schools and undergraduate institutions, and most importantly, it should assess the performance of students participating in science educational programs, as well as the levels of science literacy among the general citizenry. Special analysis should account for the extent to which disparities exist among performances of individuals in special groups, demographic areas, or certain educational institutional settings. Analysis of these problems may require outside consultative and evaluation services, commencement of specialized policy studies of previous research findings, and a utilization and interpretation of recent studies and surveys, such as those conducted under the National Assessment for Educational Progress, or for the National Science Board.

Finally, the committee urges the Secretary to make extensive use of scientific talent among the academic and university communities. Limitations of salary and expense (S. & E.) funds often preclude more direct outside participation in planning, budgeting, and evaluation activities. Nevertheless, the committee feels strongly that immediate steps and plans need to be developed by the Secretary to assure the direct and continued involvement of the scientific community in the development of general science-related policies, in specific tasks associated with the evaluation of competitive grant and contract applications, and in the monitoring of ongoing science education projects, institutes, and dissemination efforts.

The participation of both scientists and social scientists should not be limited to the administration and direction of the science education programs transferred from NSF. The Secretary should involve professionals from the academic communities in all program-support activities that relate to scientific teaching and learning, and in all policy planning and developmental activities which would benefit by input from the academic disciplines and from expertise of persons with scientific understanding and methodology skills.

The committee expects the Secretary to make use of provisions of this act which govern appointments and compensation with respect to scientific and technical personnel. A major factor for the success and influence of NSF's science education efforts has been attributed to its strong commitment to the steady rotation of scientists from the field into the agency. Continued use of noncompetitive appointments should be based on highly selective skills or knowledge which may not be available in the agency as well as a general desire to have notable and competent science educators functioning within the agency at all times. Technical assistance to other Federal education program managers and project officers and to other interested groups or individuals concerning science education should be a significant departmental function apart from the funding of programs. Transfer of personnel from NSF to the Department should help to build the nucleus of a cadre of expert science educators. An immediate review of staffing requirements for the science education activities should be undertaken.

Finally, the Secretary should also make note of the committee's concern for the organizational placement of the science programs being transferred. The committee recommends that a supergrade-level person with a strong science background should directly supervise the science program activities.

HUD COLLEGE HOUSING PROGRAM

The committee recommends the transfer of the college housing program, presently administered by the Department of Housing and Urban Development (HUD).

The college housing program was created by title IV of the Housing Act of 1950, as amended, to assist higher educational institutions, through long-term Federal loans, in the construction, expansion, or rehabilitation of dormitories, dining halls, student unions, infirmaries, and other campus housing. The program's budget for fiscal year 1978 was $111 million. Interest rates for the loans average about 3 percent. More than $3 billion in loans to publicly operated postsecondary educational institutions are still outstanding. For the private institutions participating in the program, nearly $2 billion are outstanding.

Generally, the committee believes the transfer of the HUD college housing program would allow for the development of a consolidated assistance program for construction of higher education facilities. There already exists in the Office of Education the higher education facilities loan and insurance fund, the purpose of which falls into line closely with the college housing program.

The committee further believes it will be important that the present high level of efficiency of operation of the program not be disturbed by the transfer. HUD now uses complex legal agreements and procedures for operating the program, and their transfer should be carried out with a minimum of disruption and burdensome changes. The committee recommends the Department of Education continue to use the services of the Federal Reserve Bank as the fiscal agent for the Department. Coordination between the Department and the FRB should be close and strong during and after the transition period.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

The bill provides for the establishment of an Intergovernmental Advisory Council on Education. Helen Wise, member of the Pennsylvania State House of Representatives, commented that the Department of Education "presents an important opportunity to improve Federal-State and Federal-local relations in education programs and policymaking." She further stated:

> Federal sensitivity to State and local concerns in the area are absolutely essential . . . If the legitimate Federal role is to be most effective, then the Federal executive branch and State and local governments must have the maximum opportunity to understand one another.

The Council will provide such a forum for representatives of State and local government to discuss and impact on Federal education programs and policies.

The Council will advise the Secretary and the President on intergovernmental problems, progress, and concerns regarding education and intergovernmental relations. It will serve as a strong influence at the Federal level which recognizes the primary responsibility for education resides with State, local, and tribal governments, public, nonpublic, and private institutions. OMB Director James McIntyre's testimony before the committee in support of an Intergovernmental Advisory Council suggested it would improve the intergovernmental system for developing and carrying out education policies.

Appointed to the Council by the President would be 22 nonpartisan representatives from State and local government, State and local educational agencies, and private citizens, including citizens, students, and nonpublic institution representatives.

The committee recognizes that Federal education policy has expanded dramatically without an assessment of the resulting changes and impact at the State and local levels. The creation of an Intergovernmental Advisory Council on Education provides opportunities to solve existing problems in education. The Council should be a vehicle for improving intergovernmental relations by highlighting intergovernmental issues. It will provide a forum for all parties having intergovernmental interests to assess the Federal Government's impact upon education policy. It will be in a position to encourage improved management of education at all levels and insure that the Department will be responsive to a wide range of interests.

The Department itself will be served by the Council. The effectiveness of most Federal programs repends upon the delivery of the service of those programs at the State or local level where the Federal Government has limited authority. The widely-scattered education programs have caused confusion for State, local, and private agencies with respect to fragmentation and duplication at the Federal level. Testimony before the committee by Lubbie Harper, Jr., executive assistant for the New Haven Public Schools, commented on the disparity between State and Federal guidelines. State agencies must deal with a myriad of agencies at the Federal level which often result in excessive amounts of paperwork requirements. The Council will provide a mechanism for involving the public to facilitate intergovernmental coordination. It will assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is not intended to be a buffer between the Secretary of Education and the President or Congress, nor is it expected to be involved in the day-to-day operations of the Department or in the annual budget process. Its purpose is to work toward the attainment of Federal, State, and local educational objectives. Its focus should be upon the long-term health of the intergovernmental system for managing education.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

There is a strong need for effective coordination of education programs in the Federal Government. The committee believes a useful tool for the Secretary of Education in achieving this coordination will be the Federal Interagency Committee on Education (FICE).

FICE was first created by an Executive order issued by President Johnson in October 1964, and later revised and updated in another issued by President Nixon in January 1974. In both cases, the FICE was created because:

> Continued close coordination of Federal educational activities will facilitate the resolution of common problems and otherwise promote effective planning and management of (education) activities.

Through the creation of the Department of Education, the Congress will be taking a giant step toward consolidating a widely scattered, badly fragmented Federal education effort. Although the Department will, as provided for in S. 991, consolidate more than 170 education programs, there will still be other education programs in various Federal agencies. Coordination of these programs with those of the Department of Education will be an important function of the Secretary.

One such example would be in the area of international education. Increasing global interdependence hastened by exchanges of ideas, people, technology, natural resources, and culture make international education an increasing part of the learning experience of all Americans. The establishment of FICE will provide an excellent vehicle for the Secretary of Education, who has primary responsibility for internal activities, to work with the Director of the International Communication Agency (ICA) who has primary responsibility for coordinating external activities in education and cultural affairs to propose and coordinate strategies for improving programs in international education.

For higher education, the importance of a strong FICE increases. As Charles Saunders of the American Council on Education told the committee:

> The higher education community has had more interest in other programs elsewhere in the government than in the (HEW) Education Division. But at the same time, the need to coordinate the relationship across the government still remains very acute.

At the present the existing nonstatutory FICE does not function at the Secretary level. The chairperson of FICE is the Assistant Secretary for Education. Agency representatives to the committee are often not high-ranking officials, which detracts from its effectiveness.

S. 991 elevates and upgrades FICE and gives it new prominence. The legislation mandates the chairperson shall be the Secretary of Education, thereby giving the committee Cabinet-level leadership. The bill names some of the key Federal agencies which must designate representatives to FICE. In addition, the Secretary can appoint other members to serve on FICE or to participate in its meetings. Other participants or members might include ACTION, ICA, and the Smithsonian Institution. The language stipulates that these individuals must be from high-ranking, policy-level positions. The committee believes this is crucial, as these members will be in a position to better implement FICE's recommendations in their specific agencies.

The legislation provides statutorily for FICE. The committee, which is charged with studying the Federal Government operation and structure with an eye towards efficiency, believes coordination will be one of the single most important tasks of the Secretary of Education. A job this important should not be left to Executive order authority, when priorities and needs change with the coming and going of different administrations. With S. 991, coordination of Federal education programs becomes a congressionally mandated priority and function.

The conduct of various studies, surveys, and evaluations relating to the overall impact and influence of Federal educational activities are also important initiatives for the Secretary to direct. The committee believes the Secretary should make great use of the FICE in conducting such studies to facilitate interagency cooperation.

RESEARCH AND IMPROVEMENT IN EDUCATION

The committee has paid particular attention to the need to provide the new Department with a strong base for its research and improvement activities. The bill establishes an Office of Educational Research and Improvement (ERI), headed by an Assistant Secretary for Educational Research and Improvement.

The Department's assistance in the development of new knowledge about the educational process, and encouragement of its use in improving education, will be a major activity of the Department of Education. Both the Administration and organizations representing educational researchers have endorsed the importance of providing for a strong research component within the new Department, James T. McIntyre, Jr., Director of the Office of Management and Budget, told the committee:

> The research and improvement functions must receive a high place in the Department, given the important role of the Federal Government in supporting such functions. We expect that by giving these functions more prominence in the new Department, the research efforts funded by the Federal Government, and the ability to disseminate information on different approaches to learning and development will be enhanced.[11]

The American Educational Research Association, in prepared testimony for the Committee, stressed that "it is necessary for education research, evaluation, development dissemination, and analysis to be structured into a position of influence within the department."

Testimony given the committee by former Commissioner of Education S. M. Brownell aptly stated the importance of such a component:

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[11] McIntyre testimony before Senate Governmental Affairs Committee on S. 991, May 1, 1978.

> In summary, I have a strong conviction that there is need for a separate education research component within the Education Department which should be able to assist and be assisted by many of the service units in the Department. But it also should have the status and resources to promote basic research in education in universities. Probably a large measure of its resources should be channeled to applied research in educational research institutes, centers or experiment stations which could be held accountable for the continuity and quality of the field testing. It would be my judgment that it would require an individual with the rank of Assistant Secretary for Educational Research to head this important function in the Department.[13]

In total, more than $700 million is spent on statistical analysis, research, development, demonstration, dissemination, and evaluation efforts in the Education Division of the Department of Health, Education, and Welfare, the National Science Foundation Science Education Directorate, and other programs that would be transferred to the new Department by S. 991.

Support for research and improvement activities are the mechanisms through which the Federal Government can least intrusively and most productively increase the capacities of State and local and private educational agencies, other levels of governments, private organizations, and individuals to improve the quality of American education.

Federal research and improvement activities: An overview

Given the importance of the Federal government's support for research in education, the committee's attention focused on numerous Federal agencies conducting educational research. The National Institute of Education (NIE) has the mandate to both conduct and coordinate educational research at all levels. The National Science Foundation, particularly through its science education programs, directs large amounts of money toward educational research, development, and improvement of science education. The Fund for the Improvement of Postsecondary Education (FIPSE) supports innovative projects in the area of post-secondary education, and the National Center for Educational Statistics (NCES) collects data, and conducts a wide range of research surveys on all aspects of education. The Office of Education administers the majority of research-related program activities in the Education Division, for example, operating programs in vocational education, education of the handicapped, and titles I, III, IV, VII of the Elementary and Secondary Education Act, support applied research and demonstrations designed to improve educational practice.

The committee is convinced that a much more rational organizational structure should be designed for the plethora of Federal efforts to support analysis, investigation, and improvement of our educational system. Moreover, the research and improvement activities of the Federal Government need to be more effective and efficiently managed.

An Office of Educational Research and Improvement

S. 991 establishes an Office for Educational Research and Improvement, in order to correct problems with, and build on the strengths of, current research and improvement activities at the Federal level. The Office will be headed by an Assistant Secretary (executive level IV).

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[13] Op. cit., Brownell testimony, hearings, Oct. 13, p. 823.

In establishing an Office of ERI, the committee is both certifying the role and elevating the priority of Federal R. & D. activities which are designed to improve education, public understanding, and the capacities of educational institutions at all levels.

The new Office will serve as an integrating and coordinating mechanism for supporting the effectiveness of a wide range of research, development, demonstration, dissemination, evaluation, analytical, and other activities facilitating change.

The committee considered several alternative ways of reorganizing these functions.

To many, the National Institute of Education appeared to be a logical base from which the Federal Government might build a more rational and comprehensive research and improvement function. The committee considered effects of expanding the National Institute of Education so as to incorporate many of the research, development, demonstration, and dissemination functions now performed by such diverse agencies as FIPSE, the science education programs of the Science Education Directorate of NSF, and many education program offices of the current Office of Education. Another proposal considered was to lapse the National Institute of Education but transfer its functions and those of other programs, to a new Institute for Educational Research and Improvement. A third approach considered in committee discussions was to reorganize the functions of the various agencies and programs transferred into several functional and distinct units within a new Institute for Educational Research and Improvement—a concept of "institutes" within a larger national institute.

However, rather than reorganize specific units at this time, the committee decided to transfer several programs intact to a new Office for Educational Research and Improvement in the Department. Section 212 establishes this Office which shall be administered by the Assistant Secretary for Educational Research and Improvement, who shall be compensated at level IV of the executive salary schedule. The functions of the Fund for the Improvement of Postsecondary Education, Federal grants for nonbroadcast telecommunications demonstration, and programs transferred from the Director of the National Science Foundation are specifically delegated to the Office of the Assistant Secretary for Educational Research and Improvement. Although the committee did not explicitly transfer the National Institute of Education or its functions to this Office, it assumes that most or all of the functions currently in the NIE do belong with other related research and improvement activities in the new Office. The Secretary may delegate such additional research and improvement duties and powers to the Assistant Secretary as are deemed appropriate.

As noted, this committee expects the Human Resources Committee to direct its attention to the reorganization of educational research and improvement functions when hearings to extend FIPSE, NIE, science education, and telecommunications program authorizations are held next year. At that time the possible relationships between the programs transferred by this legislation to the Office for Educational Research and Improvement and the overall mission of the Office for Educational Research and Improvement can be considered further.

The committee has also been made aware of the special concerns of many higher education and academic groups in wanting to preserve the integrity and quality of programs supported by the Fund for the Improvement of Postsecondary Education and by the Science Education Directorate. Clearly these programs are different from, though complementary to, those innovation-type programs funded by USOE and NIE. The needs of these programs, which are aimed mostly at improving undergraduate education, should be taken into account, and we expect the Secretary and the Assistant Secretary to work with appropriate authorizing committees and subcommittees to subsequently give these and other research and improvement programs more explicit guidance with respect to structure and function.

Criteria for assigning research and improvement functions

The bill provides authority for the Secretary to assign and reassign existing programs among units of the new Department including the research and improvement unit. The committee does not, however, intend that all demonstration, development, and dissemination activities be assigned to the Office for Educational Research and Improvement. Operating program units should retain some capacity for data collection, evaluation, and dissemination of exemplary programs. Indeed, their present capabilities to carry out these functions should be strengthened.

The central distinguishing characteristic of the functions that would be performed by the Office of Research and Improvement is that—while they complement and contribute to the effectiveness of major service-support and formula-driven Federal programs—they are not directed by the informational needs of these activities and policies.

Peer review and competitive processes should guide the allocations of most research funds.

A sufficient number of career and short-term professionals involved in research and improvement activities should be recruited by the excepted service authorities in order to facilitate flexibility and attract the best qualified persons.

Greater emphasis should be placed on developing ways to improve the dissemination of the results of research and improvement activities.

The organizational structure of the Office of Educational Research and Improvement

As noted earlier, and as the assumptions just identified imply, the Office of Educational Research and Improvement will not encompass all activites relating to research, development, dissemination, demonstrations, evaluation, and policy analysis. It will, however, encompass a substantial proportion of these activities, particularly those that support the priorities of State, local, and private educational agencies and other organizations and individuals concerned with learning more about and improving the quality of American education.

Among the existing organizational units or functions that are specifically assigned or that might be included within the Office are:

All elements of the science education programs transferred to the Department from the National Science Foundation (Assigned.)

The National Institute of Education.

The Fund for the Improvement of Postsecondary Education. (Assigned.)

The nonbroadcast telecommunications programs transferred by this bill from the Office of the Secretary of HEW to the Department. (Assigned.)

Those activities of NCES that involve longitudinal research or analysis on the condition and future of American education.

A capacity for policy-related research and evaluation studies assigned to the Office by the Congress or the Secretary.

Some existing demonstration and development programs aimed at supporting specific changes in cirriculum or science-related programs, for example, metric or environmental education.

Programs aimed at enhancing the capacity of educational institutions to change in directions they define, for example, title IV–C of ESEA, which supports innovation activities of State education agencies.

Telecommunications development activities currently scattered among numerous offices can be brought together in an effort to develop a more coherent Federal policy in this area.

Educational policy analysis studies and associated staff activities, which are also scattered among various offices and levels of the educational bureaucracy, can be brought together for the purpose of associating these tasks with the decisionmaking and planning processes.

The possibilities of improving the linkages and integration of numerous related, and sometimes overlapping program authorities are endless. The committee expects the Secretary and Assistant Secretary to develop a more cohesive framework for the myriad number of research and improvement programs.

Locating the science education programs now in NSF alongside those science-related programs currently in the Office provides an example of the potential opportunities the Office for ERI provides. The demonstration and faculty development programs in science education are consistent with and supportive of many of FIPSE's purposes. Science-related education programs currently administered by the Education Division equal in size those being transferred from the Science Education Directorate of the NSF. Improving linkages among this array of scientific programs will enrich the quality of Federal efforts to deal with the serious decline in student achievement in science and related fields.

Advisory and policy councils

Two programs transferred by the committee to the Office for Educational Research and Improvement currently have their own advisory councils: FIPSE and the science education programs transferred from NSF. The committee considered several alternatives for the reorganization of these advisory councils and the policy council, National Council for Educational Research (NCER), of the National Institute of Education.

One model considered was to have a policy council modeled after NCER for the entire Office of Educational Research and Improvement.

A second model recommended an advisory council for the entire Office of Educational Research and Improvement.[13] In both these cases, the committee considered the possibility of having subcouncils for the various programs within the Office, similar to those created under the authority of the National Science Board.

Although the committee ultimately decided it wise not to merge or change any of the existing councils, or create a new overall council for the Office, it expects the Secretary, in consultation with the Senate Human Resources Committee and the House Education and Labor Committee, to consider various alternative forms in which the functions performed by the current councils might be reorganized and strengthened.[14] The committee is convinced of the importance of "buffering" the basic and applied research functions of the Office, and suggests that this issue be considered within the context of the creation of the new Office and the Assistant Secretary position.

Concluding comments

The committee expects the Assistant Secretary for the ERI to support the policies and priorities specified in Sections 404 and 405 of the General Education Provisions Act, which relate to the Fund for the Improvement of Postsecondary Education and the National Institute of Education. Equal commitments are required for continuing R. & D. policies and activities relating to the science education programs being transferred by the bill from NSF.

The committee recognizes the need to give the Secretary of Education considerable discretion in organizing research and improvement programs in the Department, and in delegating specific programs and activities to the Office for Educational Research and Improvement. At the same time, the committee expects the Secretary to consider the committee's view of the role and activities of the Office for Research and Improvement. Moreover, in developing the character, structure and practices of the Office and in allocating research and improvement functions throughout the Department, the committee suggests the Secretary work closely with the Senate Human Resources Committee and the House Education and Labor Committee.

HEW—SPECIAL INSTITUTIONS

There are presently four educationally oriented institutions over which the Department of Health, Education, and Welfare maintains budgetary oversight, and for which the Federal Government is the major source of revenue. Each of these "special institutions" have as their primary mission the education and assistance of special, handicapped, or disadvantaged constituencies.

The committee believes the transfer of the current relationship between these Special Institutions and the Federal Government to the

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[13] The draft bill considered by the committee in markup folded the functions of NIE into an Institute for Educational Research and Improvement, along with the FIPSE, science education, and telecommunications-demonstration functions. It also changed NCER's policy role to an advisory one. An amendment agreed to in committee by voice vote preserved the NIE intact, as well as the NCER and changed the proposed Institute for Educational Research and Improvement to an Office of Educational Research and Improvement. The NCER, then, would remain as a policymaking council, but only for NIE—authorized activities. This was done in order to allow the authorizing committees an opportunity to consider this question of additional reorganization further in the context of renewed authorizing legislation.

[14] Ibid.

Department of Education is a logical and wise move. The four institutions include:

American Printing House for the Blind, located in Louisville, Ky., was established by Congress to provide educational materials to elementary and secondary school-age blind students.

National Technical Institute for the Deaf, located in Rochester, N.Y., provides residential, coeducational post secondary technical education for the deaf.

Gallaudet College, in Washington, an educational institution providing college preparatory, undergraduate and continuing education programs for the deaf. Gallaudet also includes the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School.

Howard University, in Washington, a private nonprofit undergraduate college, graduate school and medical facility emphasizing the training of minorities in technical and professional fields.

The committee is impressed with the successes of these institutions, and recommends their association with the Federal Government continue. The missions of these four institutions will follow closely that of the Department of Education.

In the past, all four institutions agree HEW has allowed them maximum flexibility in determining their programs and content of curricula, and in experimenting with new, innovative ideas in their special educational missions. The committee strongly believes such a high degree of independence and autonomy must continue in the Department of Education.

While the responsibility for oversight of these institutions is statutorily vested in the Office of the Secretary, the committee suggests the Secretary should consider the possibility of coordinating the functions of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with those of the Office of Special Education and Rehabilitative Services in the new Department. Oversight for Howard University should be coordinated with and linked to the Office of Postsecondary Education.

USDA GRADUATE SCHOOL

The committee recommends the transfer of the USDA Graduate School to the new Department.

The Graduate School was created in 1921 and it has evolved over the years into a first-rate continuing education program benefiting nearly 30,000 employees of the Department of Agriculture, employees of other Federal agencies, and other citizens living in the Washington metropolitan area. The school receives no Federal appropriations, and its staff is not subject to civil service guidelines. The school does not exist for any purpose integrally related to the mission of the USDA. In fact, most of its students are employees of other Federal agencies, or are members of the general public. The committee believes the central purpose and goal of the Graduate School relates closely to that of the Department of Education. The new Department will be very much concerned with adult and continuing education, which is the primary rationale for the Graduate School. Further, the school will develop a more professional image by its association with an education agency, rather than an agricultural agency. The school's ties to USDA have been the source of much confusion over what it really does and what it accomplishes.

The committee expects the Secretaries of Education and Agriculture to develop a plan and set of procedures, with concurrence of the Director and Board of Trustees of the school, for transferring the administrative offices to the Department of Education. Appropriate facilities should be made available which assure that the Graduate School continues and flourishes as a nonaccrediting and continuing educational institution.

The Graduate School should remain independent and not subject to any statutory or administrative responsibilities established by this act. In no such manner should the Secretary of Education, or any other official of the Federal Government, attempt to exercise any direct influence over the curriculum, program of instruction, administration, or personnel of the Graduate School. That should remain the primary responsibility of the school's board of trustees.

The Committee assumes that the Department and its education programs will require substantial library, classroom, demonstration and audiovisual facilities, and that these facilities can be shared and utilized by the participants, faculty and students of the Graduate School.

The committee intends that the transfer of the Graduate School will not terminate or lessen educational services provided by the Graduate School to the Department of Agriculture and its employees. Nor should the change in administrative locations alter the special relationships which the Graduate School currently maintains with other Federal agencies, offices and private institutions throughout the Washington area.

Moreover, the Graduate School should continue to be maintained as an independent, nongovernmental institution and, other than indirect services accorded to its administrators and program operations, no federally appropriate funds should be used to support the ongoing operation of the Graduate School functions.

The Graduate School should also retain the prerogative to operate in its present format and under existing policies, or to sever its current physical ties with federal agencies and, thus, become a more independent, self-sufficient and autonomous educational institution. Such alterations of policies influencing or governing future directions of the Graduate School should be totally within the jurisdiction of its director, deputy director and board of trustees. This transfer should not, in any way, affect the school's by-laws or rules and regulations.

The committee believes the transfer of the Graduate School to the Department of Education will have a beneficial impact on both institutions. The committee fully expects the Graduate School will continue to expand and prosper under the new Department.

COMMITTEE ACTION

The Governmental Affairs Committee held 10 days of hearings on S. 991 during which 100 witnesses testified. The committee also held three markup sessions on July 11, 14, and 18, 1978. The bill was reported favorably by the twelve members present on July 18, with an additional three Senators voting in favor by proxy.

HEAD START

On July 11, the committee unanimously decided to delete the proposed transfer of the Head Start program from HEW to the Department of Education. On July 14 an amendment introduced on June 15 by Senator Heinz and cosponsored by Senators Javits, Percy, and Glenn pertaining to the deletion of the Head Start program was adopted in its entirety by voice vote in order to clarify the committee action on July 11. Senator Danforth was added as a cosponsor to the amendment at this time. This amendment deleted the establishment of the Office of Child Development, which would have administered the Head Start program. Its language also provided assurances that there is no other provision in the Act, relating to authority for other transfers from the Department of Health, Education and Welfare, that would provide for the transfer of Head Start.

In the committee's discussion of this amendment, it was felt that it would be inappropriate to include the Head Start program in the Department of Education. The committee recognized that Head Start provides comprehensive services including health, nutrition, education, dental, mental health, parental involvement and social services. The outstanding success of this program can be partially attributed to Head Start's unique characteristics—significant parental involvement, comprehensive services and a diverse Federal-to-local delivery system. Because it has been successful in all these program components in its present organizational location and because these services are comprehensive in nature, it was felt that its present organizational location within the Office of Human Development Services of HEW was an appropriate location for the program. The committee recommends that Head Start, thus, be maintained in its present location within the Administration for Children, Youth and Families (ACYF) and not be placed in any organizational structure where the program would be administered by State education- or welfare-oriented agencies. The unique characteristics mentioned above should be maintained and strengthened. The committee recommends that those officials in the program work closely with the Department of Education officials so that the successful Head Start model can be a guide for many of the programs in the new Department.

VOCATIONAL REHABILITATION

On July 11, the committee considered an amendment proposed by Senator Humphrey to transfer vocational rehabilitation programs from HEW to the Department of Education and to create an Office and Assistant Secretary for Special Education and Rehabilitative Services. It was passed by voice vote without objection. On July 14, the committee also approved by voice vote a clarifying amendment introduced by Senator Chiles to insure that placement of vocational rehabilitation services in a Federal education agency would not mandate similar placement at the State level.

The Humphrey amendment transfers to the Secretary the functions being administered by the Commissioner of Rehabilitation Services Administration under the Rehabilitation Act of 1973.

In addition, Senator Ribicoff introduced amendments requested by Senator Randolph to clarify the intent of the Humphrey amendment. The purpose was to ensure that the Randolph-Sheppard vending facility program and the Office of Handicapped Individuals were transferred to the Office of Special Education and Rehabilitative Services. It was clarified that it was not the intention of the Humphrey amendment to transfer Vocational Rehabilitation Services for Supplemental Security Income beneficiaries or Vocational Rehabilitation Services for Social Security Disability Beneficiaries. The committee adopted these amendments by voice vote on July 27.

INDIAN EDUCATION

Senator Stevens introduced an amendment to delete the proposed transfer of Indian education programs from the BIA to the Department of Education. The committee voted to defeat the amendment by a rollcall vote of 3 yeas—7 nays.

Child Nutrition Programs

On July 14, Senator Percy offered an amendment to delete the proposed transfer of the child nutrition programs form USDA to the Department of Education. The amendment was defeated by a rollcall vote of 8 yeas–8 nays. [Senator Danforth requested by unanimous consent that his vote be recorded in the official record as in favor of the Percy amendment.] During the discussion of this transfer, Senator Ribicoff introduced a compromise amendment on behalf of the administration which retains the responsibility for commodity funding in the Department of Agriculture. The compromise amendment was approved by voice vote.

Intergovernmental relations

On July 18, the committee adopted a series of amendments proposed by Senators Roth and Danforth to strengthen provisions ensuring the rights of State and local governments concerning their direction over schools. The Roth-Danforth amendments also change the membership of the Intergovernmental Advisory Council on Education by providing that the President shall consult with such organizations as the National Governors Conference, National Association of Counties, the League of Cities, and the U.S. Conference of Mayors in the selection of members. The intent of the Roth-Danforth amendments is to ensure that the new Department will not try to preempt the local decision-making process and assume new powers that might infringe upon the powers of the local school boards. The committee stressed the importance of the consultation with and recommendations of the various groups involved in educational matters.

Human Resources Committee amendments

During the committee's consideration of the bill, in markup, it was agreed that the Human Resources Committee would have an additional 2-weeks to submit any amendments to the Governmental Affairs Committee. These amendments would be submitted to the Committee by Senator Javits, ranking minority member of the Human Resources Committee and also a member of the Governmental Affairs Committee. On July 27, three additional amendments were introduced by Senator

Javits on behalf of the Human Resources Committee. The first amendment deletes section 403 of the bill which authorizes the Secretary to establish, combine, or terminate advisory committees.

Section 403 provided authorization for the Secretary to establish, combine, or terminate such advisory committees as he or she deemed appropriate to carry out the functions of the Secretary or the Department. The deletion of this section would provide that provisions of the Federal Advisory Committee Act and section 448 of the General Education Provisions Act be maintained, where applicable.

Senator Percy expressed concern that some consideration be given to the proliferation of advisory committees. Senator Javits agreed to discuss this concern with Senators Pell and Williams for possible floor consideration of amendment with respect to advisory committees.

The second amendment was concerned with Section 413 which provides authority for the Secretary to allocate or reallocate functions among officers of the Department and to establish, consolidate, alter or discontinue organization entities within the Department. Section 413 was revised to specifically prohibit the reallocation of any office, bureau, unit or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity unless it is in respect to specific entities specified in section 413. If the Secretary wishes to reallocate functions or consolidate, alter or discontinue such entities, the Secretary must notify the Senate Human Resources and the House Education and Labor Committees not less than 90 days before the proposed action. The notification must include a complete statement of the action proposed to be taken.

This amendment insures that the reorganization authority provided the President with respect to reorganization of Departments is preserved as well as statutory obligations established by Congress; however, the section provides the Secretary specific limited flexibility with respect to certain offices previously within the Education Division of HEW and now transferred to Department of Education.

The third amendment further defines the planning and evaluation functions of the Department by including the development of policies to promote the efficient and coordinated administration of the Department and its programs. The amendment requires that the officer performing these functions be one of the level IV assistant secretary positions established by the bill. In addition, Section 427 would require the Secretary to also discuss in the Annual Report anticipated future progress of the Department towards the attainment of the stated findings and purposes in the bill. In the preparation of the report, the Secretary would consult with the public and hold hearings on the report after its submission to Congress.

The committee approved these amendments by voice vote.

FINAL ACTION

Senators Percy, Roth, Glenn, and Mathias were added as cosponsors of the legislation. The committee voted unanimously to report the bill favorably on July 18, agreeing to reconvene for reconsideration after the Human Resources Committee submitted its amendments. On July 27, the committee adopted by voice vote the amendments offered by Senator Javits on behalf of the Human Resources Committee.

ROLLCALL VOTES IN COMMITTEE

Rollcall votes taken during committee consideration of this legislation are as follows:

July 11, 1978

Vote on Stevens amendment to delete the proposed transfer of BIA education programs: 3 yeas—7 nays.

YEAS	NAYS
Humphrey	Nunn
Stevens	Sasser
Chiles	Percy
Jackson [1]	Danforth
	Ribicoff
	Javits
	(Proxy):
	Muskie

July 14, 1978

Vote on Percy amendment to delete the proposed transfer of child nutrition programs: 8 yeas—8 nays.

YEAS	NAYS
Chiles	Ribicoff
Nunn	Javits
Percy	Heinz
Danforth [2]	(Proxy):
(Proxy):	Muskie
Jackson	Glenn
Eagleton	Sasser
Humphrey	Stevens
Roth	Mathias

July 18, 1978

Final passage: Ordered reported: [3] 12 yeas—0 nays.

YEAS	NAYS
Eagleton	
Chiles	
Sasser	
Nunn	
Humphrey	
Percy	
Javits	
Roth	
Danforth	
Heinz	
Ribicoff	
Glenn	
(Proxy)	
Jackson	
Muskie	

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[1] Senator Jackson requested to be recorded as voting yea.

[2] By unanimous consent, Senator Danforth was recorded as voting yea.

[3] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

JULY 27, 1978

Those in attendance during voice vote on Javits amendments:

- Muskie
- Eagleton
- Chiles
- Sasser
- Percy
- Javits
- Danforth
- Heinz
- Ribicoff

SECTION-BY-SECTION ANALYSIS OF S. 991

TITLE I—GENERAL PROVISIONS

Section 101. Statement of Findings

Section 101 sets forth the findings of the Congress that (1) education is fundamental to the growth and achievement of the Nation; (2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities; (3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local and tribal governmental, public and nonpublic educational institutions, communities and families; (4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative and often inconsistent Federal policies relating to education; (5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions; (6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands; (7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education; and (8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and it is in the public interest and will promote the general welfare of the United States to establish a Department of Education.

Section 102. Purposes

Section 102 states the purposes of the Department in order to (1) insure that education receives the appropriate emphasis at the Federal level; (2) enable the Federal Government to more effectively coordinate education activities and programs; (3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities; (4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs; (5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education; (6) promote the quality and relevance of education to individual needs; (7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions; (8) (A) provide leadership in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents and students to implement the findings of such research at the local level; (9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork on the recipients of Federal funds; and (10) assess the potential contribution of educational institutions, toward the improvement of education by creating mechanisms for them to bring problems to the attention of appropriate departments and agencies and make recommendations to foster their continuing vitality.

Subsection (b) states it is the intention of the Congress in creating the Department to protect the rights of State, local and tribal governments, and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

Section 103. Definitions

This section defines terms used in the Act. Such terms include Department; Secretary; Under Secretary; Assistant Secretary; Director (Director of the Office for Civil Rights); Administrator (Administrator of the Office of Education for Overseas Dependent Children); Council (Intergovernmental Advisory Council on Education); Committee (Federal Interagency Committee on Education); and function.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Section 201. Department of Education

Section 201 establishes as an executive department of the Government, the Department of Education.

Section 202. Principal Officers

Section 202 provides for the establishment of the Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the executive schedule contained in section 5312 of title 5, United States Code. Also established is the position of an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the executive schedule.

The section states the Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of the Secretary and/or Under Secretary.

The section establishes 14 other principal officers of the Department: an Assistant Secretary for Special Education and Rehabilitative Services; for Indian Education; for Child Nutrition; for Elementary and Secondary Education; for Postsecondary Education; for Occupational, Adult, and Community Education; for Educational Research and Improvement; a Director of the Office for Civil Rights; two additional Assistant Secretaries; an Inspector General; and a General Counsel. Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each of these officers shall perform such duties and exercise such powers as the Secretary shall prescribe, and shall report directly to the Secretary. Each shall be compensated at the rate provided for level IV of the executive schedule.

The section provides that the Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, and Aleuts. It is the committee's belief that Indian tribes, Alaskan Natives, and Aleuts must be involved in the selection of this officer. The committee believes the Assistant Secretary for Indian Education should be of American Indian, Alaskan Native, or Aleut origin. The President should make a comprehensive effort to find a qualified individual, who is well versed in the special and unique needs of Indian students, and who has a demonstrated record of experience in improving the education of Indian people.

The section also states that one of the Assistant Secretaries shall administer the intergovernmental functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. It was felt that the assignment of Federal-State-local relations functions should be performed by a senior departmental official at executive level IV. This individual would be a high-level position to insure a State perspective on a continuing basis in all departmental affairs.

Also, one of the Assistant Secretaries shall administer the functions under section 203(13) for planning, evaluation, and policies of the Department. This will insure a high-level officer is specifically responsible for the efficient and coordinated administration of the Department and its programs and will encourage improvement in education.

The section also provides for an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the executive schedule contained in section 5316 of title 5, United States Code.

One additional officer is provided for who shall perform such duties and exercise such powers as the Secretary may prescribe. This officer shall be compensated at the rate provided for level V of the executive schedule contained in section 5316 of title 5, United States Code.

The section states that whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office. This provision is not meant to prohibit the Secretary from reassigning duties and functions or from changing such duties or functions of the officer at a later time if it is necessary to do so for the efficient operation or functioning of the Department.

Section 203. Functions of the Department

Section 203 outlines the functions of the Department. It states the function of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—(1) administration of programs pertaining to elementary and secondary education including the administration of the follow-through program; (2) administration of programs pertaining to postsecondary education; (3) administration of programs pertaining to occupational, adult, and community education; (4) administration of education grants and other programs for which the Department has responsibility under law; (5) administration of child nutrition programs; (6) administration of programs relating to special education and rehabilitative services; (7) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals; (8) administration of schools for the overseas dependent children of personnel of the Department of Defense; (9) enforcement of the civil rights laws relating to education; (10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics; (11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs; (12) public information; (13) planning for and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvement in education; (14) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress; (15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and (16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and public in the development and implementation of departmental programs.

Section 204. Office for Civil Rights

Section 204 establishes an Office for Civil Rights to be administered by a Director. In light of the high importance the committee attributes to civil rights enforcement in education, the bill provided in section 202 that the Director shall be an executive level IV, appointed by the President with the advice and consent of the Senate, who reports directly to the Secretary. The committee recommends that the Director be accorded the title Assistant Secretary for Civil Rights to reflect the visibility and stature his or her activities should have within the Department. The Secretary shall delegate to the Director all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred to the Secretary (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

The Office for Civil Rights (OCR) shall be the agency within the Department with the authority to exercise sanctions if any agency in the Department funds recipients who violate non-discrimination provisions. The committee intends that this Office have the resources and authority necessary to do its job.

This responsibility, however, does not diminish the Secretary's responsibility as the chief policy official of the Department, who must be responsible for civil rights compliance and enforcement.

Section 204 provides that the Secretary shall delegate all civil rights compliance and enforcement functions (other than administrative and support functions) to the Office for Civil Rights. This provision was included to make certain that civil rights enforcement responsibilities are not delegated by the Secretary to any official in the Department other than the OCR Director. Civil rights responsibilities are law enforcement responsibilities, and program units within the Department cannot be expected to impose legal sanctions on themselves. This is not to be construed as barring; and in fact, the committee intends to encourage every agency within the Department to consider civil rights criteria in the awarding and monitoring of grants, contracts or other Federal funds. A strong, adequately staffed Office for Civil Rights, with complete authority from the Secretary, can insure that all civil rights laws are enforced in all program units of the new Department.

This prohibition against the Secretary delegating authority to enforce civil rights laws to offices other than the OCR is not intended to limit the Secretary's ability to utilize staff who work in other offices both inside or outside the Department for other functions such as preaward audits or postgrant monitoring. Clearly, such staff might provide specific expertise necessary to help carry out or lend support to civil rights enforcement activities. However, under section 204(a), such staff must be responsible solely to the OCR Director if they are to assume any of the Secretary's responsibilities for employing sanctions for noncompliance.

Section 204(b) requires the Assistant Secretary for Civil Rights each year to prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with civil rights laws relating to education. In addition to this status report, the report shall include a statement concerning the OCR's plans and recommendations to insure improved enforcement of and continued compliance with civil rights laws related to education. The committee anticipates that this report will identify significant problems of compliance or enforcement which may require oversight by appropriate congressional committees and a description of the specific enforcement activities indicated by OCR during the previous year.

The annual report shall be submitted directly and independently by the Director to the President, the Secretary, and the Congress without clearance or approval by any executive branch official. The committee views this report as a mechanism to obtain a precise, objective statement of the status of and future plans for civil rights enforcement in education. The Congress must have an independent annual report on civil rights activities that is free from potential programmatic and practical pressures that may be brought to bear on a Secretary in order to determine if the laws of the Nation are being implemented. A direct, unedited report from the Director will provide this independent view. The Director should, however, insofar as feasible, provide a copy of the report sufficiently in advance of its submission to the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to it when transmitted to Congress by the Director.

Section 205. Office of Elementary and Secondary Education

Section 205 establishes in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education. In addition, the Assistant Secretary for Elementary and Secondary Education shall perform such other duties and exercise such powers as the Secretary may prescribe.

Section 206. Office of Postsecondary Education

Section 206 establishes in the Department an Office of Postsecondary Education. The Office shall be administered by the Assistant Secretary for Postsecondary Education. The Office would assure that the needs and concerns of postsecondary institutions are represented. The Office will develop and coordinate policies and programs designed to improve postsecondary educational opportunities. Policies and procedures that recognize changing characteristics in postsecondary education should be initiated. The Assistant Secretary should advise the Secretary and Congress of these trends and also direct, coordinate, and implement departmental policies with respect to postsecondary student assistance, institutions and community colleges, and provide institutional support.

The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

Section 207. Office of Occupational, Adult, and Community Education

Section 207 establishes an Office of Occupational, Adult, and Community Education, to be administered by an Assistant Secretary for Occupational, Adult, and Community Education. This Office will be responsible for administering those programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. Because of the creation of this new office, the committee expects the functions and duties previously performed by the Bureau of Occupational and Adult Education to be performed by the new Office.

The Assistant Secretary shall also perform such additional duties and exercise such powers as the Secretary may prescribe.

Section 208. Office of Special Education and Rehabilitative Services

This section establishes within the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services.

This Office will contain the programs administered by the Rehabilitation Services Administration (RSA), with the exception of vocational rehabilitation services for social security disability beneficiaries and vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disability programs. In addition, the Office will administer the programs previously administered by the Bureau of Education for the Handicapped (BEH); and the Office for Handicapped Individuals (OHI). All of these entities are presently located in HEW and their functions are transferred to the Department.

It is the intention of the committee to create a comprehensive office of consolidated programs for the education of the handicapped. The committee believes this will initiate the development of an effective policy for the education of the handicapped that will aid handicapped individuals from birth through adulthood. The goal of this Office should be to increase the ability of handicapped individuals to adapt to society.

The committee intends, through the creation of this Office and Assistant Secretary, to make special education and rehabilitative services a high priority in the Department of Education. The Assistant Secretary should make strong efforts to coordinate his or her activities with those of the Department. Also, the creation of this Office will provide the Assistant Secretary an opportunity to efficiently coordinate the programs which were administered by RSA with those which were administered by BEH.

It is the committee's expectation that the Assistant Secretary will be a strong advocate for the furtherance of the goal of increasing the ability of handicapped individuals to adapt to society.

Athough the committee strongly believes vocational rehabilitation programs are educationally focused and should be included within the Department of Education at the Federal level, it is not the intention of section 208 to change any existing organizational structural requirements for vocational rehabilitation program at the State level; thus the enactment of this section does not specifically mandate any particular organizational structure of the programs at the State level with respect to the transfer.

Section 209. Office of Child Nutrition

This section establishes an Office of Child Nutrition, to be headed by an Assistant Secretary for Child Nutrition. The Office will administer all functions transferred to the Secretary from the Department of Agriculture relating to the National School Lunch Act and the Child Nutrition Act.

The committee intends, through the creation of this Office and Assistant Secretary, to make child nutrition a high priority in the Department of Education. The Assistant Secretary should make strong efforts to coordinate his or her activities with those of the Department. The committee believes the Assistant Secretary should be a strong advocate for better nutrition in the Federal Government, and in the nation's schools.

The committee intends that all functions transferred under section 302 be delegated to the Assistant Secretary for Child Nutrition, except for the oversight of the graduate school and administrative and support functions.

Section 210. Office of Education for Overseas Dependent Children

This section establishes an Office of Education for Overseas Dependent Children, to be administered by the Administrator for Education for Overseas Dependent Children.

The Administrator would carry out the functions transferred to the Secretary from the Departmen of Defense relating to the Office of Dependents Schools of the Department of Defense and to the operation of schools for dependent children of members of the Armed Forces (other than administrative and support functions).

The committee expects the Secretary will make available to the Office and the Administrator other resources in the Department for the improvement of the Dependents Schools, including child nutrition programs, vocational education programs, education of the handicapped services, and other programs for the improvement of academic facilities and personnel.

Section 211. Office of Indian Education

This section establishes the Office of Indian Education, to be administered by the Assistant Secretary for Indian Education.

The Secretary is required to delegate to the Assistant Secretary all functions transferred to the Department relating to education in the Bureau of Indian Affairs. Also, the Assistant Secretary will administer the functions of the existing Office of Indian Education and the Office of the Deputy Commissioner of Education for Indian Education in the U.S. Office of Education in HEW. Although this section requires the delegation of all Indian education functions transferred under this act to the Assistant Secretary except for administrative and support functions, the committee intends that these support functions include only those which provide for immediate facilities and support services relating to the Office of Indian Education itself, not those relating to the operation of Indian schools in the field (which the committee intends should be transferred to the Office).

This section specifically provides that the transfer of functions will not modify or eliminate any eligibility requirements or standards in effect before the transfer. The definition of an "Indian" differs considerably between HEW and the BIA. The committee intends that where Indian education programs and services presently serve only those tribes granted recognition by the Federal Government, they shall continue to serve those Indian people. For those programs authorized under the Indian Education Act, where a broader definition of "Indian" is used, that statutory definition shall continue to exist. The committee believes there is a strong need to tighten the latter definition. But such action can be taken only after the most careful study and with extensive consultation with Indians, Alaskan Natives, and Aleuts. The Assistant Secretary should go to great lengths to insure these two eligibility requirements and standards are continued in the Office. The committee expects the administration of the BIA transferred services and the OE transferred programs will remain distinct and separate under the Assistant Secretary until such time as Congress provides otherwise. The problem of varying definitions of an "Indian" is one that should be thoroughly examined, and remedied in the near future.

The committee expects the Department of Education will not violate the trust responsibility of the U.S. Government for Indians, Alaskan Natives, and Aleuts. The committee views this provision as being of paramount importance in both the creation of the Department and the new Office of Indian Education. The trust responsibility stems directly from the Federal Government's agreements and treaties signed with Indian tribes. The Department of Education, under this section, is ordered by Congress to strictly adhere to the trust responsibility. The Department, the Assistant Secretary, and the Office of Indian Education are legally and morally bound and obligated to meet the special and unique needs of Indians, Alaskan Natives, and Aleuts. The committee intends that the transfer of the BIA education functions and their consolidation in the new Office of Indian Education will not in any way threaten the trust responsibility and will improve Indian education.

This section also mandates coordination and consultation between the Assistant Secretary for Indian Education and the Assistant Secretary in the Department of the Interior who has responsibility for Indian Affairs. The committee believes close and strong cooperation between these two top Federal Indian officials is imperative. There will be instances where some of the educational facilities under the purview of the Department of Education will require light support services, such as the maintenance of a road on a reservation to a school.

The committee intends that there be developed a viable working relationship between the two Assistant Secretaries to rapidly eliminate any logistical concerns that might arise. The Assistant Secretary for Indian Affairs will be expected to do everything in his or her power to assist in the provision of educational services to Indian people, and to insure that the transfer of functions from the BIA be carried out with diligence and efficiency.

The Assistant Secretary for Indian Education is also mandated to increase the level of local control of Indian education by Indian people. The committee intends that this doctrine be the pervasive philosophy of the new Department and the Office of Indian Education. It is extremely important that Indian people assume more control, operation, input, and self-determination over the schools that serve their children. In this regard, the Assistant Secretary should make strong efforts to encourage more contracting under the Indian Self-Determination and Education Assistance Act. Funding arrangements for all programs and services of the Office should be made as much as possible directly between the Office and the tribes or Indian organizations. The committee does not approve of Indian education funds administered by the Office being channeled through State education agencies because the Federal Government has a direct relationship with Indian tribes.

The committee understands that some programs benefitting Indians should be administered outside the Office of Indian Education. For example, the ESEA title I funds that support Indian education are properly administered by the Assistant Secretary for Elementary and Secondary Education. However, the Assistant Secretary for Indian Education has an important role to play in helping to shape those programs outside his immediate domain so as to be more appropriate to Indian needs.

Last, this section provides for the transmittal to Congress every 3 years of a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts. The committee believes such a plan will be an important function of the Office and the Assistant Secretary. The primary purpose of the consolidation of Indian education functions under this legislation is to facilitate the development of a comprehensive Federal strategy for Indian education—long a victim of neglect. The committee expects such a plan will be developed with extensive consultation with Indian tribes and organizations. Such plan should also include an analysis of the progress of Indian education, and include recommendations for the improvement of Indian education.

Section 212. Office of Educational Research and Improvement

Section 212 establishes an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement. The section states that the Secretary shall delegate to this Assistant Secretary all functions relating to the fund for the improvement of postsecondary education, those functions transferred which relate to Federal grants for telecommunications demonstrations; and the science education functions transferred intact from the National Science Foundation.

In establishing this Office, the committee recognizes the important role of the Federal Government in assisting research and development activities which are designed to improve education, public understanding, and the capacities of educational institutions. This Office will integrate and coordinate the wide range of research, development, and demonstration programs.

The programs proposed for inclusion in the new Office are included because their overall missions fit into and would complement the new Office. Although this section does not specifically place the National Institute of Education into this Office, the committee feels this placement is appropriate. It recommends that the authorizing committees, in conjunction with reauthorizing legislation for the fund for the improvement of postsecondary education and the National Institutes of Education, consider the renewal for these programs within an organization and decisionmaking framework which will ultimately enhance the research role for the Department.

Additionally, the Assistant Secretary shall perform such other duties as the Secretary may prescribe.

Section 213. Office of Inspector General

Section 213 establishes in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary which are now vested in the Inspector General of HEW. In addition, the Inspector General will have this same authority with respect to the functions of the Secretary or of the Department, or of any officer or component thereof which are transferred to the Department.

This section insures that the Inspector General for the Department will have the same authority as that now vested in the Inspector General of the Department of Health, Education, and Welfare. To insure that the Inspector General possesses the same independence that is now vested in HEW's Inspector General, the section provides that the Inspector General shall be appointed and removed in the same manner, and have the same status as the HEW Inspector General. Thus, the Inspector General would be appointed by the President and removed solely by the President.

It is the committee's intent that the Inspector General function be a strong component in the new Department. Since this Department will spend more than $17 billion in Federal moneys, it is the committee's view that the Inspector General's office actively and thoroughly investigate any abuses or mismanagement of funds.

Also, at the present time, the House of Representatives has passed a bill providing for an Inspector General in various other Federal departments. The Senate Governmental Affairs Committee has ordered reported a similar bill. The committee recommends that if the Inspector General bill is enacted, this bill be conformed to the new statute.

Section 214. Office of General Counsel

This section establishes an Office of General Counsel, to be administered by the General Counsel.

The General Counsel shall perform necessary duties with respect to legal assistance to the Secretary concerning the programs and policies of the Department and any other additional duties the Secretary feels are appropriate for this Office.

Section 215. Intergovernmental Advisory Council on Education

Section 215 establishes within the Department an Intergovernmental Advisory Council on Education. The purpose of the Council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The functions of the Council are to provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is also required to submit a report every 2 years to Congress, the President, and the Secretary which reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions, and assess the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions.

The Council would assist the Secretary in conducting conferences and similar activities to assess the contributions of each level of government to the delivery of equitable, high-quality, and effective education.

The Council's membership shall be composed of 22 members, appointed by the President. Not more than 11 of the members of the Council may be members of the same political party. Six members would be chosen from elected State, local, and tribal officials; six members would be selected from the public, including parents, students, and public interest groups; five members would be from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and five members would be chosen from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

In making appointments to the Council, the President shall consult with representatives of state and local governmental authorities who do have a direct responsibility in education policy decisions at the State and local levels. Such groups would include the National Governor's Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors. This consultation is not limited, however, to the organizations specified. It is the committee's view that the President should also consult with other groups which are representatives of the membership selected to the Council. Such organizations would include educational organizations, citizens' public interest groups, including civil rights groups, tribal organizations and student groups. The committee feels this consultation is important in order to insure the type of broad-based representation on the Council which is necessary to carry out its stated objectives in bringing the opinions and ideas of those persons involved in the educational process to the attention of the Department.

Members appointed to the Council would be appointed for four year terms and would have a bipartisan representation. Not more than 11 members appointed to the Council would be from the same political party.

If such a member appointed to the Council is an elected official, the member may serve on the Council to the expiration of his or her appointment to the Council.

If the Council wishes, it may review rules or regulations proposed by the Department concerning Federal education programs. The purpose of the Council's review would be to determine the impact of rules or regulations on State, local and tribal governments, and public and nonpublic educational institutions. The review of the regulations would have to be conducted in accordance with the specified time allowed for public comment on the rules or regulations, as specified according to the Department's procedures. In conjunction with this provision, the Council may establish a subcommittee for the purposes of the review. The Council may receive and consider comments by affected parties on the proposed rules or regulations.

The Council may submit a report containing the results of its review to the Secretary within the time established for public comment. The Council's review would be placed on the public record. If such a report is submitted to the Secretary, the Secretary would be required to submit a written public response which addresses the Council's recommendations and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations in the rule or regulation.

The Council's review should be limited to those rules or regulations the Council feels significantly impact upon intergovernmental relations to such an extent that they warrant special attention by the Council.

The section prescribes that the per diem paid to the Council members will be the equivalent of the daily rate for a GS–18.

The Council is authorized to hold hearings and request the attendance and testimony of witnesses, as well as the cooperation and assistance of other Federal departments, agencies, and instrumentalities.

The Secretary would be required to appoint an executive director to be compensated at the rate provided for a GS–17. The Secretary should seek the approval of the Council in making the choice of the executive director. In addition, the Secretary is required to provide the Council with additional staff, facilities, and assistance as needed to carry out the Council's activities.

Section 216. Federal Interagency Committee on Education

This section establishes the Federal Interagency Committee on Education to conduct studies and make recommendations in order to assure the effective coordination of Federal programs affecting education.

The committee would be composed of at least 17 members. In order to provide more opportunity for greater coordination, the Secretary could expand this number to include other agencies involved in other education-related programs. One member would be the Secretary, who would be the chairman of the committee. Sixteen members would be representatives of the following departments and agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Justice, Department of Health and Welfare, Department of the Interior, Department of Labor, Department of State, National Aeronautics and Space Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Veterans Administration, Commission on Civil Rights, and Environmental Protection Agency.

The committee believes the coordination of Federal education programs outside the Department with those inside will be a critically important function of the Department and the Secretary. One of the basic reasons for the creation of the Department of Education is to improve coordination of education at the Federal level.

FICE should become a viable, active tool of the Secretary in eliminating duplication of effort between the Department and other Federal agencies. The committee fully expects the Secretary will take an active role in the operation and work of FICE. That is the purpose of naming the Secretary of Education as the chairperson. FICE should be an important mechanism for the conduct of comprehensive studies on the Federal role in education, and where the effort can be streamlined.

The committee further expects the agencies designated to be represented on FICE in the legislation will also take active roles in improving coordination and performance of their education programs. The committee has specifically required these agencies to appoint senior officials involved in policymaking functions to represent them on FICE. FICE will be effective only as long as it has as members individuals who hold significant policy and decisionmaking authority.

Although the bill requires FICE to meet at least twice each year, the committee expects the Secretary will utilize FICE more often, especially in the first 3 years of the life of the new Department, when relationships among the many Federal agencies involved in education are developing and becoming formalized.

This section also mandates FICE to conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. FICE is required to report its findings to Congress within 2 years. The committee intends that FICE devote much attention to and conduct an extensive investigation of the relationship between vocational education programs in the Department with other vocational-oriented programs in the Department of Labor. The committee has been made aware of lack of coordination and duplication of effort between the vocational education and training programs of HEW and the Department of Labor. A strong, coordinated vocational education and training effort is important to the economic growth of the nation.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301. Transfers from HEW

Section 301(a) transfers all officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Office of Management and Budget Director are to be employed, held, or used primarily on connection with any function of the following agencies, offices, or parts of agencies or offices:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of HEW giving advice and making recommendations principally concerning education; and

(5) the Office of Handicapped Individuals of the Department of HEW.

Subsection 301(b)(1) transfers to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary, the Assistant Secretary for Education, or the Commissioner of Education of the Department with respect to the following:

(A) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education. (The Education Division was created by the Education Amendments of 1972 to coordinate functions of the U.S. Office of Education and the National Institute of Education (NIE). Authorization for NIE expires at the close of Fiscal Year 1979.)

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics. (The Office of the Assistant Secretary for Education (ASE) coordinates all Education Division functions. ASE is responsible for providing administrative services to the Fund for the Improvement of Postsecondary Education (FIPSE) and for the National Center for Education Statistics (NCES).)

(C) The Institute of Museum Services. (The Institute for Museum Services is authorized by the Arts, Humanities, and Cultural Affairs Act of 1976. It is established within the Department of Health, Education, and Welfare and delegated to the Office of the Assistant Secretary for Education.)

(D) Any advisory committee in HEW is giving advice and making recommendations principally concerning education.

Section 301(b)(2)(A) transfers all functions of the Department of HEW or the Secretary of HEW principally involving education including functions—

(i) Under the General Education Provisions Act, including section 404 relating to the Fund for the Improvement of Postsecondary Education (FIPSE). (The authorization for FIPSE expires at the close of fiscal year 1979.)

(ii) Under section 808 of the Elementary and Secondary Education Act of 1965. Section 808 of the Elementary and Secondary Education Act of 1965, as amended, authorizes grants for demonstration projects to improve school nutrition and health services for children from low-income families. (No appropriations have been requested over the last several years; functions can be funded under ESEA title IV, Educational Admendments of 1974.)

(iii) Under the Emergency School Aid Act. The Emergency School Aid Act, authorized by title VII of Public Law 92–318, the Education Amendments of 1972, provides grants to educational agencies for the purposes of reducing minority group isolation and for improving the quality of education for all children. Authority is assigned to the Assistant Secretary for Education. (Education Amendments of 1978 alter program characteristics.)

(iv) Under the Higher Education Act (HEA) of 1965. The Higher Education Act, as amended, includes the following separate authorizations:

Community service and continuing education programs.

College library assistance and library training and research.

Strengthening developing institutions.

Student assistance (basic education opportunity grants, grants to States for State student incentives, special programs for students from disadvantaged backgrounds, veterans' cost-of-instruction payments to institutions, among other grant and loan provisions.)

Teacher corps and teacher training, including teacher centers, training of higher education personnel, fellowships for teachers, vocational educational full-time and part-time training programs.

Financial assistance for the improvement of undergraduate instruction (facilities, television equipment, and minor remodeling).

Construction, reconstruction, and renovation of academic facilities (undergraduate and academic facilities grants and loans).

Cooperative education (grants for programs which provide alternating periods of academic study and of public or private employment).

Graduate programs (research and public service fellowships and stipends, and associated institutional assistance grants).

Establishment and expansion of community colleges (State planning grants, and grants to institutions).

Law school clinical experience programs (planning,, training, equipment, and library resources, stipends.)

General provisions (statewide planning grants, advisory council on graduate education).)

(v) Under the Emergency Insured Student Loan Act of 1969. (The Emergency Insured Student Loan Act of 1969 (Public Law 91-95) authorizes special allowances for lenders with respect to student loans under title IV-B of the HEA of 1965)

(vi) Under the act of August 30, 1890 (7 U.S.C. 321-328). (College-aid annual appropriation: This law provides authority for the Secretary to provide endowments for agriculture and mechanic arts to each State and Territory, Guam, and the Virgin Islands).

(vii) Under the Environmental Education Act. (The Environmental Education Act (Public Law 91-516), as amended, authorizes programs to encourage understanding of policies, and support activities designed to improve environmental and ecological understanding; (curriculum development, training of teachers, community programs). This act will be reauthorized in 1978.)

(viii) Under the Alcohol and Drug Abuse Education Act, except functions under section 5. (The Alcohol and Drug Abuse

Education Act (Public Law 91-527), as amended, authorizes grants or contracts to educational and community agencies to develop materials and support other educational activities designed to prevent drug abuses.

(ix) Under the International Education Act of 1966. (The International Education Act of 1966 (Public Law 89-698), as amended, provides authority for granting funds for advanced and undergraduate international studies. To date, no funds have been appropriated.)

(x) Under the National Defense Education Act of 1958. (The National Defense Education Act of 1958 (Public Law 85-864), as amended, provides authority for strengthening instruction in science, mathematics, modern foreign language, and other critical subjects. It also permits loans to nonprofit private schools, and support for guidance, counseling, and testing services. Recently, these activities have been funded under the grant-consolidation provisions of title IV of ESEA Amendments of 1974.)

(xi) Under the Education of the Handicapped Act. For a discussion of the programs administered under this act, see areas of discussion, vocational rehabilitation, page 42 of this report.

(xii) Under the National Commission on Libraries and Information Science Act. (The National Commission on Libraries and Information Science Act (Public Law 91-345) authorizes establishment of a commission which operates outside (as an independent agency) HEW. It provides advice to the President and Congress, conducts studies, surveys, and conducts meetings. It assumes responsibility for coordinating and administering the White House Conference on Library and Information Science (Public Law 93-568), to be held not later than 1978. HEW's role is to provide the Commission with "necessary administrative services . . .")

(xiii) Under the Vocational Education Act of 1963. The Vocational Education Act of 1963, as amended, is designed to improve the quality of vocational education. The majority of funds are provided to States in basic, formula-drive grants; States prepare State plans. Other discretionary and categorical grant programs under this Act include:

Special programs for disadvantaged;
Consumer and homemaking;
Innovation, research, and development projects;
Personnel development;
Bilingual vocational training; and
Adult education and special studies.

Subsection 301(b)(2)(B) transfers part B of title V of the Economic Act of 1964.

Subsection 301(b)(2)(C) transfers the functions administered by the secretary or the Office for Civil Rights for the enforcement of civil rights laws and educational orders relating to the functions transferred elsewhere in the bill.

Subsection 301(b)(2)(D) transfers the Office of Inspector General of HEW as it relates to the functions transferred by this section.

Subsection 301(b)(2)(E) transfers all laws dealing with the relationship between Gallaudet College (including the Model Secondary

School for the Deaf), Howard University, the American Printing House for the Blind, the National Technical Institute for the Deaf, and the Department of HEW.

Through the transfer of these special institutions, the committee intends that the new Department continue to allow these institutions maximum flexibility, independence, and autonomy in determining their educational program and system. The Secretary should consider coordinating the oversight of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with the Office of Special Education and Rehabilitative Services. Coordination of oversight of Howard University would be best linked with the Office of Postsecondary Education.

Subsection 301(b)(2)(F) transfers functions under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations.

Subsection 301(b)(2)(G) transfers functions under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine.

Subsection 301(b)(2)(H) transfers the functions being administered by the Secretary of HEW or by the Commissioner of the Rehabilitation Services Administration (RSA) under the Rehabilitation Act of 1973. RSA is presently located in HEW. This section also transfers the Randolph-Sheppard vending facility program, which is administered by the Commissioner but is not authorized by the Rehabilitation Act of 1973. This section does not transfer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disabilities programs.

Subsection 301(b)(3) transfers the functions of the National Institute of Education.

Subsection 301(b)(4) transfers the functions of the Institute of Museum Services.

In describing the functions of the Department of Education, the committee has attempted to provide a complete list of existing functions now located in HEW that would appropriately be transferred to the Department. Subsection (b)(2) pertains to functions of the Department of Health, Education, and Welfare to be transferred and describes in specific terms the legislative authorities the committee expects the new Department to administer. The subsection is not intended as a broad authority permitting transfer, by administrative determination, of additional functions up to now clearly associated with health or welfare programs of the Department.

In addition, it is the committee's intent that prior experience requirements for employees performing specified functions be maintained as Congress intended. Examples are requirements in section 160(b) of the Vocational Education Act of 1963 (20 U.S.C. 2390(b)) that certain individuals performing vocational education functions have prior experience in the fields of junior and community college education, occupational guidance and counseling, and engineering.

Section 302. Transfers of functions from the Department of Agriculture

This section transfers the child nutrition programs authorized under the National School Lunch Act and the Child Nutrition Act from the Department of Agriculture, except for commodity distribution and the women-infants-children (WIC) program.

In addition, this section directs the Secretary of Education and the Secretary of Agriculture to consult with one another on the preferences of States and localities for commodities. It also requires the Secretary of Education to consult with Federal agencies concerned with nutrition policy when taking actions that affect the nutrition standards used in these programs.

The committee intends that the transfer of these school and child nutrition programs be made to consolidate the major Federal education programs affecting the Nation's schools in order to reduce duplicative and burdensome rules, regulations, and paperwork. The committee believes that by forming a uniform administrative chain in the administration of school feeding programs (Federal-State-local governments), significant opportunities will arise to cut redtape and increase efficiency.

The committee is also aware that many programs that will be administered by the Office of Elementary and Secondary Education, among others in the Department, have nutrition responsibilities. The committee intends that, by this transfer, improved coordination will result between these programs.

The committee expects the Assistant Secretary for Child Nutrition will give strong emphasis to developing nutrition education in the Nation's schools. The committee believes the key to reducing plate waste and improving dietary awareness for children is nutrition education. The expertise in the Department for developing curricula and educational materials should be made available to the Assistant Secretary for instituting more nutrition education.

An important part of the child feeding programs is the distribution of surplus agricultural commodities to the schools and other institutions. The committee believes the commodity program is best left in USDA. USDA has the expertise in purchasing surplus commodities, and its services in this field are used by other Federal agencies successfully. The commodities must be of high quality and contribute to the nutrition of the Nation's children. There must be consultation and coordination between the Department and USDA on the needs and preferences of schools relating to the commodity program. The committee expects at the minimum, the relationships which now exist between the Food and Nutrition Service in USDA and the two commodity agencies—Agricultural Stabilization and Conservation Service and Food Safety and Quality Service—should carry over to the Department of Education.

At times, the Assistant Secretary will need the assistance of Federal agencies dealing with nutrition research. The committee intends and expects that such agencies will furnish the technical and research advice and services required for the operation of these programs. In taking action affecting the existing nutrition standards, the Assistant Secretary shall make use of these facilities and consult with those Federal agencies having nutrition responsibilities. Moreover, the committee expects that the extensive research resources of the Department of Education will also be utilized to help assess and improve the effectiveness and efficiency of the child nutrition programs.

The nutrition services provided by the child nutrition programs are critical to the proper development of the Nation's children and are important responsibilities of the schools. The committee believes that the scope of the Department should reflect these responsibilities. Further, the committee expects that the Department will actively seek to promote the full integration of these child nutrition programs into the educational process.

This section also transfers from the Department of Agriculture the graduate school.

The committee expects that the transfer will have little effect on the operation of the graduate school. The Secretary should allow the graduate school the same amount of independence and autonomy it has enjoyed under the USDA. Responsibility for policy and curriculum, and other operational authorities, should be the prerogative of the graduate school's board of trustees, not the Department.

The committee recommends complementary relationships should develop between the graduate school and the entire Department. Appropriate facilities should be made available for the continued efficient operation of the graduate school. The committee expects that the Department will share library, classroom, demonstration and audiovisual facilities with the graduate school and its faculty and students. Sharing resources should in no way disrupt or interfere with activities and program operations assigned to the Department by law.

Coordination of the programs of the Office of Occupational, Adult, and Community Education concerning occupational and community education with those of the graduate school—as an institution specializing in continuing education—would be desirable and beneficial.

The continuing prosperity and expansion of the graduate school should be the major objective of the Secretary.

Section 303. Transfers of functions from the Department of the Interior

This section transfers all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

The transfer of functions relating to the operation, construction, and maintenance of schools and dormitories would become effective whenever the President prescribes, but in no case later than 3 years after the effective date of this act. Within 1 year after the date of enactment, the Secretary would transmit to Congress a plan, developed in consultation with the affected tribes, Indian organizations, and other groups, for effecting these particular transfers.

In making the transfer of education functions from the Bureau of Indian Affairs, the committee intends that all functions not relating to the operation, construction, and maintenance of the BIA school system be transferred to the Assistant Secretary for Indian Education in the new Department on the effective date of this legislation.

By "all functions of the Secretary of the Interior . . . relating to the education of Indians, Alaskan Natives, and Aleuts," the committee wants to make clear that this also includes any financial assistance to public schools and tribally operated schools authorized under the so-called Johnson-O'Malley Act. The committee understands that approximately $33 million was spent under this program in fiscal year 1978 for educational assistance.

The committee has provided for a 3-year phase-in period for the transfer of all functions relating to the operation and maintenance of the BIA schools. The legislation also provides that the Assistant Secretary, through the Secretary, shall transmit to Congress a comprehensive plan for effecting the transfer.

The 3-year phase-in period is necessary for the orderly and efficient transfer of the BIA schools. The committee believes the phase-in period will result in little or no disruption or adverse effects to the schools.

Much emphasis and diligence should be placed on developing the comprehensive plan for transfer. The committee stresses the importance of consultation with Indian tribes and organizations on the transfer. The plan must have the input of Indian people for it to be successful. The plan should also contain recommendations for increasing the level of control and participation of Indian education by Indians themselves. The committee believes one important aspect of the plan shall be the recommendations of the Assistant Secretary on the possible creation of an all-Indian board or commission to play a significant role in the development of policy on the Federal level. The committee believes it is important to consider the need for the creation of such a high-level Indian education panel to advise the Secretary and the Office of Indian Education. The committee expects the Assistant Secretary and the Secretary will transmit to the Congress their recommendations for such a board, but only after having actively solicited the input of Indian people on the makeup, powers, and structure of such a board.

The committee further intends that support services for the schools also be transferred during the phase-in period. All functions relating to construction, policy development, and planning, evaluation, and budget should be transferred. The committee will monitor the 3-year phase-in for its efficiency, and for the close cooperation it expects to develop between the Interior Department and the Department of Education.

Section 304. Transfers of agencies and functions from the Department of Defense

This section provides for the transfer of the Department of Defense overseas dependents schools. This section also authorizes the operation of the dependents schools, which in the past have been authorized only by appropriation legislation. The Secretary is required to develop a comprehensive plan for effecting the transfer of the schools within 1 year of the date of enactment.

The committee recognizes the operation of the dependents schools will require careful analysis before a plan of transfer can be designed and executed. During this transition the Congress expects the Secretary of Defense and the Secretary of Education to work closely to assure a smooth transfer of the schools and to avoid any disruption to the education programs conducted in the schools. In addition, section 505(a) of the bill requires that agreements between the schools and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer of the schools.

The administrative reorganization of the schools which is currently underway should continue, and should not be disrupted during the transitional period.

The section requires that the comprehensive plan for transfer include recommendations for increasing the participation of parents, educators, students, school administrators, and military personnel in the operation and development of the schools. The committee believes it is important to consider the need for the creation of a board or commission, made up of the aforementioned individuals, to guarantee more input in the development of policy and in the operation of the schools by those involved with the educational process. Such a board would operate at the Federal level, and could have responsibilities similar to that of a State board of education. The committee expects the Secretary will transmit to Congress his or her recommendations, developed after much study and consultation with all affected parties, for the structure and authority of such a board. These recommendations should be contained within the comprehensive plan for effecting the transfer of the schools.

Section 305. Transfers of functions from the National Science Foundation

Subsection (a) transfers certain programs of the National Science Foundation (NSF) or of the Director of the National Science Foundation relating to science education.

It does not transfer programs with respect to graduate fellowships and traineeships integral to the support of scientific research and development; programs concerned with ethical, value, and science policy issues; or those for communicating science values to nonscientists.

Subsection (b) authorizes the Secretary to conduct the programs transferred by subsection (a). Only certain existing National Science Foundation science education programs are being transferred; NSF will retain the function and the right to continue its activity in appropriate science education programs.

In subsection (c) the Secretary is mandated to consult with the Director of NSF when conducting the programs transferred under this section.

Subsection (d), which is related to subsection (b), assures that NSF retains the authority to institute new programs under section 3(a)(1) of the National Science Foundation Act of 1950, even though certain of its existing programs are being transferred to the new Department.

Section 306. Transfers of programs from the Department of Justice

This section transfers the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Interim Program from the Department of Justice.

Section 307. Transfers of functions from the Department of Housing and Urban Development

This section transfers the administration of college housing loans from the Department of Housing and Urban Development.

Through the transfer, the committee expects that the present high level of efficiency will be maintained in the administration of the program. The complex legal agreements and procedures used by HUD for the program should not be disrupted by the transfer. The committee intends that the transfer will not change the existing relationships between HUD and the Federal Reserve Bank, which serves as the fiscal agent for the program. Further, the committee recommends the Secretary coordinate and administer together the college housing program and the higher education facilities loan and insurance fund in the new Department to facilitate the development of a consolidated assistance program for construction of higher education facilities.

Section 308. Transfer of the Advisory Council on Education Statistics

This section transfers personnel, assets, and functions of the Advisory Council on Education Statistics.

Section 309. Effects of transfers

Any function of an officer or agency transferred will include any aspect vested in a subordinate of the officer or in a component of the agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

Section 401. Officers and employees

Subsection (a) authorizes the Secretary to appoint and fix the compensation of officers and employees necessary to carry out the functions of the Secretary and the Department, subject to the civil service laws.

Subsection (b) provides for the transfer to the Department of Education of the "supergrade" (GS–16, 17, and 18) positions related to existing programs that are being transferred to the Department. These positions exist in their current locations pursuant to 5 U.S.C. 5108(a). Because the positions already have been designated by the Civil Service Commission, the provision permits the Secretary to appoint the incumbents to similar positions in the Department without requiring new reappointment authority. Paragraph (3) assures that this exception will apply only with regard to these individuals.

Subsection (c) authorizes certain excepted appointments for use in the Office of Educational Research and Improvement generally following those now available for programs of the National Institute of Education and the National Science Foundation that are being transferred to the Department. This subsection also authorizes the appointment of up to 15 transitional employees on an excepted basis.

Subsection (d) authorizes the appointment, in conformity with the civil service laws, or 21 supergrade employes to replace 21 such positions created by law in connection with programs being transferred to the Department. In addition, it authorizes 50 new supergrade positions, in conformity with the civil service laws. The Committee feels the additional 50 supergrade positions are necessary due to the fact that projected overhead functions for the department are now extremely lean in supergrades. For example, only five supergrade positions are now available for the administration of budget functions, Major additional needs for the overhead functions of the General Counsel, Inspector General, Administration and Budget, Regional Offices and the Immediate Office of the Secretary would be needed. The Department would require additional supergrade positions for the overseas schools, which have nearly 10,000 employees, the Indian schools, which have nearly 9,000 employees and major grant making responsibilities and for the nutrition programs which would account for almost $3 billion in programs and which would be administered by 600 personnel. Currently these programs only have authority to hire five supergrades. The Committee does not expect additional supergrades to be requested for the Education Division program activities.

In terms of budget outlays, the Department will be the fourth largest domestic department in terms of outlays with authority to hire the smallest number of supergrades, even with the addition of these positions. The 21 recreated positions will retain their existing grade levels, subject to the authority of the Secretary to reevaluate such levels from time to time. In assigning the supergrade positions particular grade levels under subsection (d), other than those used to replace positions previously established by law within the Education Division, 63 percent would be deemed GS-16's, 25 percent GS-17's, and 12 percent GS-18's.

Subsection (e) provides all Indian preference hiring laws which are now in effect will continue to remain in effect after enactment.

The committee intends that the Office of Indian Education take strong steps to institute Indian preference in its employment practices. Indian preference should apply to all the Office's functions. Responsibility for insuring Indian preference is enforced should be given to the Office for Civil Rights.

Subsection (f) is concerned with the authorization for and compensation of voluntary personnel.

Section 402. Experts and consultants

This section allows the Secretary to obtain the services of experts and consultants.

Part B—General Provisions

Section 411. Authority of the Secretary

This section provides that where a function is transferred to the Secretary, there are available to the Secretary the same authorities for carrying out the function that were available to the agency or officer from which the function was transferred.

Section 412. Delegation

Section 412 authorizes the Secretary to delegate functions to other officers and employees of the Department and to authorize them to delegate such functions further (unless the act provides otherwise). The delegation of the Secretary's authority to another officer or employee does not relieve the Secretary of ultimate responsibility for the exercise of the function, nor is this section intended to be inconsistent with the requirements for redelegation of functions provided for in section 413.

Section 413. Reorganization

Section 413 contains provisions governing reorganization of offices and functions within the Department.

Subsection (a) generally authorizes the Secretary to allocate or reallocate functions among the officers of the Department and to establish, consolidate, alter, or discontinue organizational entities within the Department that may be necessary or appropriate. This authority is allowed with certain exceptions stated in this section. The reorganization must be consistent with section 202 (g) of this act which requires the President, in submitting nominees to executive-level positions established in the bill, to state the particular functions of the Department the individual will exercise upon taking office. This reorganization authority is subject to section 202(g) to insure that functions required to be performed by a particular officer by this act will continue to be performed by such officer even if the Secretary chooses to reorganize the Department.

Except for the procedure provided for by subsection (b), section 413 does not allow the Secretary to allocate or reallocate functions or to establish, consolidate, alter, or discontinue organizational entities within the Department if such entities or functions with respect to such entities are established by statute. The abolition of organizational entities established by this act and the alteration or the delegation of functions under this act to any specific organizational entity is also prohibited.

Subsection (b) provides an exception with respect to the following offices and the functions attached to those offices named: Office of Bilingual Education; Teacher Corps; Community College Unit; National Center for Education Statistics; Office of Career Education; National Institute of Education; Office of Environmental Educa-Resources; Institute of Museum Services; and administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

In the case of the offices listed, the Secretary could not alter, consolidate, or discontinue any organizational entity or reallocate any function vested by statute in such an entity unless the Secretary notifies the Senate Committee on Human Resources and the House Committee on Education and Labor 90 days in advance of such action. The notice must contain a full and complete statement of the action proposed to be taken pursuant to the reorganization and the supportive facts and circumstances justifying such a proposed action.

Subsection (c) provides that on the effective date of the act, the Educational Division of the Department of Health, Education, and Welfare, including the Office of Education and its Bureau of Education for the Handicapped, Bureau of Occupational and Adult Education, and Office of Indian Education, and the Office of the Assistant Secretary for Education of that Department shall lapse.

The purpose of this section is to give the Secretary specifically stated flexibility with respect to certain offices all previously existing within the Department of Health, Education, and Welfare and transferred to the Department of Education. Under ordinary circumstances, the Secretary would be prevented from reorganizing or reallocating functions where Congress has specifically provided that such functions be performed by particular entities created by legislation. The committee was concerned that any flexibility given to the Secretary pertaining to a reorganization of functions or offices created by statute be subject to the legislative process or subject to reorganization plan. However, a limited exception is stated in this section, which provides for certain flexibility on the part of the Secretary with respect to the offices or units named in the section. This limited authority does not extend to the abolition of functions under any circumstances and gives the Secretary some flexibility to reorganize certain functions within the Department due to the fact that a new structure has been established by the bill and that existing functions or units might not be placed appropriately in the context of the new Department, if the Secretary is not provided some flexibility.

Section 414. Reporting relationships

This section gives the Secretary flexibility, consistent with section 413, with regard to reporting relationships with subordinate officers. Subsection (a) provides (subject to the limitations of section 413, but notwithstanding the General Education Provisions Act (20 U.S.C. 1221 et seq.) or any other act) that any officer or employee of the Department whose functions are transferred by the act and who was previously required to report to either the Commissioner of Education of HEW will report to the Secretary. Subsection (b) authorizes the Secretary to delegate any such reporting requirement to any other officer or employee of the Department.

Section 415. Rules

This section authorizes the Secretary to prescribe rules and regulations in connection with the functions of the Secretary of the Department. The promulgation of rules and regulations will be subject to the requirements of the Administrative Procedure Act (5 U.S.C. 551 et seq.)

Section 416. Contracts

This section allows the Secretary to enter into and perform contracts, grants, leases, cooperative agreements, or other similar transactions to the extent and to the amount provided for in advance under appropriate acts.

Subsection (b) provides that the restricting of contracting and related authority to those funded in advance by appropriations is not intended to apply to existing programs, nor to existing contract authorities under existing law. Laws granting specific contract authority also will continue to apply.

Section 417. Technical advice

This section authorizes the Secretary to provide technical assistance with respect to any program or function of the Secretary or the Department. The Secretary must also provide, upon request, technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

Section 418. Regional and field offices

The Secretary may establish, maintain, alter, or discontinue regional or other field offices.

Section 419. Acquisition and maintenance of property

This section allows the Secretary to acquire and maintain schools and related facilities and accommodations for employees of the Department and their dependents only to the extent the facilities are of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

Section 420. Facilities at remote locations

This section authorizes the Secretary to provide various services (such as medicine, food and dining facilites) to employees and their dependents stationed at remote locations when these services are not otherwise available.

Section 421. Use of facilities

This section grants the Secretary the power to use the research equipment, services, and facilities of the United States or of any State Indian tribe, or tribal organization, or foreign government, with its consent.

The Secretary may also permit various entities to use the Department's property for Department purposes.

Section 422. Copyrights and patents

This section authorizes the Secretary to acquire copyrights, patents licenses, and releases for the Department's use.

Section 423. Gifts and bequests

This section allows the Secretary to use gifts for the purpose of aiding or facilitating the work of the Department.

Section 424. Working capital fund

This section authorizes the Secretary to establish a working capital fund for common administrative services.

Section 425. Funds transfer

When the Secretary is authorized in an appropriation act he or she may transfer funds from one appropriation to another within the Department as long as no appropriation either increases or decreases by more than 5 percent and no transfer results in increasing the appropriation above the amount authorized.

Section 426. Seal of Department

This section provides for the Secretary to approve a design for a seal for the Department.

Section 427. Annual report

Section 427 requires the Secretary, as soon as practicable after the end of each fiscal year, to prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. The report will include a statement of the goals, priorities, and plans for the Department which are consistent with the findings and purposes of this act; contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of the goals, priorities, and plans for the Department specified in the findings and purposes; the effective and efficient management of the Department; and the coordination of the functions of the Department.

The report will also analyze objective data concerning changing trends in education; areas of critical concern; and the performance of the American educational system.

In addition the report will include budget projections for the 5 fiscal years succeeding the fiscal year for which the report is made, and it will contain a separate section on the recommendations for the fiscal year for which the report is made of the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

Section 448 of the General Education Provisions Act allows the Commissioner to submit within the Commissioner's annual report recommendations for the abolition or combination of advisory committee functions. Since Section 427 is a successor to the Commissioner's annual report, the Committee expects the Secretary will submit to the Congress any such recommendations on advisory committees in the annual report.

In preparing and developing this report the Secretary shall, to the maximum extent practicable, consult with members of the public. Within 90 days after the issuance of the report, the Secretary will hold public hearings. In the course of the Secretary's consultation, the Secretary may reimburse any person for expenses reasonably incurred if such person has made or is likely to make a material contribution to the work of the Department or could not otherwise participate fully and effectively in the consultation.

Section 428. Relationship to General Education Provisions Act

Section 428 provides the General Education Provisions Act shall apply only to functions transferred by this act to which the GEPA applies immediately prior to the date of enactment (except where inconsistent with the provisions of this Act.)

Section 429. Authorization of appropriations

This section authorizes to be appropriated whatever sums may be necessary to carry out the provisions of this act and to enable the Secretary to administer and manage the Department.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501. Transfer and allocations of appropriations and personnel

501(a) provides that all personnel, assets, liabilities, contracts, property, records, and unexpended sums connected with the functions transferred by this act are also transferred. Unexpended funds would be used only for the purposes for which they were originally authorized and appropriated.

Section (b) provides positions expressly specified by statute or reorganization plan to carry out functions transferred by this act, the personnel occupying those positions on the effective date of this act, and the personnel authorized to receive compensation in those positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule on the effective date of this act, will be subject to the provisions of section 503 of this act.

Section 502. Effect on personnel

Subsection (a) provides the permanent positions transferred would not be reduced in grade nor would they be separated for at least 1 year (unless stated otherwise in the act).

Subsection (b) further provides that a person who held a position compensated in accordance with the executive schedule and who is appointed in the Department to a position having duties comparable to those he or she performed immediately preceding the appointment will be compensated at least at the same rate as he or she was at the previous employment.

Section 503. Agency terminations

If the functions of an agency, commission, other body, or component thereof have been terminated or transferred, the agency, commission, other body, or component would terminate unless otherwise provided in this act. If this termination occurs, each position and office within the terminated unit would also terminate.

Section 504. Incidental transfers

The Director of the Office of Management and Budget (OMB) is authorized and directed to make any incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended funds, as may be necessary to accomplish the purposes of this act. The Director of OMB will provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this act and for whatever further measures and dispositions as may be necessary to effectuate the purposes of this act.

This section is not intended to authorize the transfer of any major program authorities not specified in the bill. The provision is designed to cover functions that are necessary to carry out the provisions of the law for the creation of the new Department. The specifications of transfers of personnel, assets, et cetera, in sections 301(a), 304(a)(1), and 308 are not intended to limit the authority contained in this section.

Section 505. Savings provisions

Subsection (a) provides any orders, rules, regulations, determinations, permits, grants, contracts, certificates, licenses, and privileges which are in effect at the time of enactment will continue in effect until their proper termination or modification.

Subsection (b) provides any proceeding, or application for a license, permit, certificate, or financial assistance affecting a function which is transferred will continue after the transfer.

This section also provides the transfer of any functions by this act would not affect any pending suit. If the suit was against an officer in his official capacity, that officer would be replaced as a party to the suit by the appropriate official of the new Department.

Section 506. Separability

This section provides if any provision of this act, or its application to any person or circumstance is held invalid, neither the remainder of this act nor the application of the provision to other persons or circumstances would be affected.

Section 507. Reference

Any Federal law which refers to a governmental unit the functions of which are transferred to this Department would be deemed to refer to the component of this Department in which this act vests those functions.

Section 508. Technical amendments

This section makes technical amendments in various acts. For example, the Secretary of Education is added to the list of successors to the Presidency, the Department of Education is added to the list of executive departments, and the executive level officers provided for in this act are added to title 5 of the United States Code.

Section 509. Amendment to the Comprehensive Employment and Training Act

This section amends section 306 of the Comprehensive Employment and Training Act of 1973 to read "Consultation with the Secretaries of Education and of Health and Welfare." It provides for the Secretary of Labor to consult with the Secretary of Health and Welfare concerning services of a health and welfare character. The Secretary of Labor would consult with the Secretary of Education concerning services of an educational nature. The Secretary of Education would solicit advice from State educational agencies with respect to education services.

The Secretary of Labor would obtain the approval of the Secretary of Education when arranging for the provision of basic education and vocational training directly.

Section 510.—Contracts with Indian tribal organizations

This section makes the Indian Self-Determination and Educational Assistance Act applicable to the Office of Indian Education in the new Department. It directs the Secretary to enter into contracts, upon request, with any Indian tribe to carry out any or all functions, authorities, and responsibilities transferred to the Secretary from the Department of the Interior, unless the Secretary finds the services to be rendered by the tribe to the beneficiaries will not be satisfactory, or adequate protection of trust resources will not be assured, or the proposed project or function cannot be properly completed or maintained. If the Secretary makes such a finding, he must consider whether the tribe would be deficient in performing the contract with respect to equipment, bookkeeping and accounting procedures, substantive knowledge of the program, community support, adequately trained personnel, or other necessary components of contract performance. The Secretary must state these objections to the tribe within 60 days, provide assistance to overcome the objections, and provide the tribe with a hearing and the right to appeal.

The Secretary is authorized to require any tribe requesting to enter into a contract to obtain adequate liability insurance. The Secretary may make grants to any Indian tribe for: the development, construction, operation, provision or maintenance of adequate education facilities or services; planning, training, evaluation or other activities designed to improve the capacity of a tribal organization to enter into a contract.

The committee intends to strengthen self-determination in the Department of Education. The committee expects the Assistant Secretary for Indian Education and the Secretary will make strong efforts to encourage more tribes to contract for their educational services. The contracting process should be conducted with as little redtape and burdensome restrictions as possible. The Department and the Office of Indian Education should provide more technical assistance to the tribes. There should be strong efforts to minimize contracting problems, including making arrangements to cover startup costs and to determine tribal funding needs in advance.

The committee does not intend, at this time, that the contracting provisions be applied to programs authorized under the Indian Education Act. It would appear those programs are most effective when the grants are awarded on a competitive basis. The Secretary should seriously study, however, the future application of the contracting authority in the comprehensive plan for Indian education required under section 211.

Section 511.—Amendment to the Elementary and Secondary Education Act of 1965

A new sentence is added to the end of section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965. The sentence will read:

> The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.

Section 512.—Redesignation

This section redesignates the Department of Health, Education, and Welfare as the Department of Health and Welfare.

Any reference to Health, Education, and Welfare would refer to Health and Welfare.

With respect to this section the committee, and Senator Humphrey in particular, suggests the administration and members of Congress work together in developing a new name for the Department of Health and Welfare. Senator Humphrey has suggested such considerations as the "Department of Health and Human Development" or the "Department of Health and Human Resources." The committee suggests that renaming the Department of Health and Welfare be given priority consideration.

Section 513. Transition

The Secretary may utilize the services of personnel of the executive branch to facilitate the orderly transfer of functions under this act as long as the Secretary receives the consent of the appropriate department or agency head concerned.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601. Effective Date

This act takes effect 180 days after the Secretary first takes office, or earlier if the President so prescribes. However, officers may be nominated and appointed and the Secretary may promulgate regulations any time after the date of enactment.

Section 602. Interim Appointments

If an officer has not entered office by the time this act is effective, the President may designate an acting officer for 120 days or until the office is filled, whichever comes first.

EVALUATION OF REGULATORY IMPACT

Paragraph 5(a) of rule XXXIX requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 991 creates a Cabinet-level Department of Education in the Federal Government. The bill's main purpose is to reorganize the Federal Government to improve governmental efficiency, management, and coordination.

The legislation provides for no new regulatory authority. The committee believes the creation of the Department of Education will not have any new regulatory impact on the provision of Federal educational services and programs. All existing rules and regulations in the programs transferred to the new Department will also be transferred.

One of the committee's goals in the creation of the Department of Education is to achieve a significant measure of consolidation of Federal education programs in order to reduce duplicative and time-consuming paperwork, rules, and regulations.

ESTIMATED COST OF THE LEGISLATION

Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of S. 991.

Based on this review, the Director of the CBO estimates the cost of creating the Department of Education will be: $3.3 million in fiscal year 1979; $5.7 million in fiscal year 1980; $8.6 million in fiscal year 1981; $10.441 million in fiscal year 1982; and $11.1 million in fiscal year 1983.

Once the Department is established, an analysis of programs designed to meet Federal objectives in the educational process may serve to point out duplication of effort. Should such duplication be highlighted, every effort should be made to eliminate and consolidate in the areas where duplication exists with an eye toward making the Federal educational effort more effective and coordinated through improved accountability, coordination, and manageability as has been stressed in the creation of the Department, and as a method of containing costs where the need for new programs may arise to meet changing national needs.

Staff additions outside of the executive positions newly authorized in the bill to carry out the administrative functions of the new Department are not anticipated. Cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the Federal involvement in the educational process.

TEXT OF S. 991 AS REPORTED

A BILL To establish a Department of Education, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands;

(7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

Sec. 102. (a) It is the purpose of this Act to establish a Department of Education in order to—

(1) insure that education receives the appropriate emphasis at the Federal level;

(2) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

(5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(6) promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities;

(7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions;

(8)(A) provide assistance in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level;

(9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(10) assess the potential contribution of educational institutions, including institutions of higher education, to the improvement of education by creating mechanisms by which such institutions may bring problems to the attention of appropriate departments and agencies and may make recommendations to foster the continuing vitality of such institutions.

(b) It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependent Children;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Indian Education;

(C) an Assistant Secretary for Child Nutrition;

(D) an Assistant Secretary for Elementary and Secondary Education;

(E) an Assistant Secretary for Postsecondary Education;

(F) an Assistant Secretary for Occupational, Adult, and Community Education;

(G) an Assistant Secretary for Educational Research and Improvement;

(H) a Director of the Office for Civil Rights;

(I) two additional Assistant Secretaries;

(J) an Inspector General; and

(K) a General Counsel.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(3) The Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, or Aleuts.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section

203(13) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education including programs under part B of title V of the Economic Opportunity Act of 1964;

(2) administration of programs pertaining to post-secondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of child nutrition programs;

(6) administration of programs relating to special education and rehabilitation services;

(7) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals;

(8) administration of schools for the overseas dependent children of personnel of the Department of Defense;

(9) enforcement of the civil rights laws relating to education;

(10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(12) public information;

(13) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and

coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(14) congressional relations, including responsibility for providing a continuing liasion between the Department and the Congress;

(15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community

Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(xi) (including the functions of the Bureau for the education and training of the handicapped) and 301(b)(2)(H), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

OFFICE OF CHILD NUTRITION

SEC. 209. There is established in the Department an Office of Child Nutrition, to be administered by the Assistant Secretary for Child Nutrition appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Child Nutrition all functions transferred from the Department of Agriculture under section 302(a)(2), relating to the National School Lunch Act and the Child Nutrition Act of 1966 (other than administrative and support functions). The Assistant Secretary for Child Nutrition shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENT CHILDREN

SEC. 210. There is established in the Department on Office of Education for Overseas Dependent Children, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 304, relating to the Office of Dependents Schools of the Department of Defense and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INDIAN EDUCATION

SEC. 211. (a)(1) There is established in the Department an Office of Indian Education, to be administered by the Assistant Secretary for Indian Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Indian Education—

(A) all functions transferred from the Secretary of the Interior or the Department of the Interior under section 303 (other than administrative and support functions); and

(B) the functions relating to Indian education (other than administrative and support functions), transferred from the Education Division of the Department of Health, Education, and Welfare under sections 301(a)(1) and 301(b)(1), which were administered by the Deputy Commissioner for Indian Education of the Department of Health, Education, and Welfare on the day before the effective date of this Act.

(2) The Assistant Secretary for Indian Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

(c) In carrying out his responsibilities under this Act, the Assistant Secretary for Indian Education shall—

(1) consult regularly with the Assistant Secretary for Indian Affairs of the Department of the Interior in order to assure the efficient operation of programs for Indian education and to coordinate the provision of support services by the Department of the Interior; and

(2) take such as may be appropriate to increase the level of local control of Indian education by Indians, Alaskan Natives, and Aleuts.

(d) Not later than three years after the effective date of this Act, and every three years thereafter, the Secretary, after consultation with the Assistant Secretary for Indian Education and with affected Indian tribes, Indian organizations, and other groups, shall transmit to the Congress a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 212. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education;

(B) under section 301(b)(2)(F), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 305.

(b) The Assistant Secretary for Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INSPECTOR GENERAL

SEC. 213. (a) There is established in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

(b) The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary under section 301(b)(2)(D), and shall perform such functions with respect to all functions of the Secretary or the Department, or of any officer or component thereof. The Inspector General of the Department shall be appointed and removed in the same manner, and shall have the same status, as the Inspector General of the Department of Health, Education, and Welfare.

(c) The Inspector General shall be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provision which might otherwise apply.

OFFICE OF GENERAL COUNSEL

SEC. 214. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 215. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high-quality, and effective education.

(2) In carrying out its function under subsection (a), the Council may review rules or regulations proposed by the Department concerning Federal education programs prior to the promulgation of such rules or regulations in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members, to be appointed by the President—

(A) six members from among representatives of elected State, local, and tribal officials;

(B) six members from among representatives of the public, including parents, students, and public interest groups;

(C) five members from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and

(D) five members from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g)(1) In carrying out the provisions of subsection (b)(2), the Council shall establish a subcommittee to review proposed rules or regulations concerning Federal education programs in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. In reviewing such rules or regulations, the Council may provide parties to be affected by such rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit a report containing the results of its review of any such rules or regulations to the Secretary. Any such report shall be submitted by the Council within the time established for public comment on such rules or regulations. The Secretary shall place any report received from the Council on the record of the proceedings concerning such rules or regulations, and shall make such report public. Within thirty days of the receipt of such report, the Secretary shall submit a written public response on the record which addresses the recommendations made by the Council concerning any rule or regulation reviewed, and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations made by the Council in such rule or regulation.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. Such executive director shall be compensated at the rate provided for GS–17 of the General Schedule contained in section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 216. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c) (1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2) (A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior officials of that department or agency who are responsible for the formulation of policy in that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are—

(i) Department of Agriculture;
(ii) Department of Commerce;
(iii) Department of Defense;
(iv) Department of Energy;
(v) Department of Justice;
(vi) Department of Health and Welfare;
(vii) Department of the Interior;
(viii) Department of Labor;
(ix) Department of State;
(x) National Aeronautics and Space Administration;
(xi) National Endowment for the Arts;
(xii) National Endowment for the Humanities;
(xiii) National Science Foundation;
(xiv) Veterans' Administration;
(xv) Commission on Civil Rights; and
(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b) (5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are hereby transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education; and

(5) the Office for Handicapped Individuals of the Department of Health, Education, and Welfare.

(b)(1) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(C) the Institute of Museum Services of the Department of Health, Education, and Welfare; and

(D) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under section 808 of the Elementary and Secondary Education Act of 1965;

(iii) under the Emergency School Aid Act;

(iv) under the Higher Education Act of 1965;

(v) under the Emergency Insured Student Loan Act of 1969;

(vi) under the Act of August 30, 1890 (26 Stat. 417);

(vii) under the Environmental Education Act;

(viii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(ix) under the International Education Act of 1966;

(x) under the National Defense Education Act of 1958;

(xi) under the Education of the Handicapped Act;

(xii) under the National Commission on Libraries and Information Science Act; and

(xiii) under the Vocational Education Act of 1963.

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to the Office of Inspector General of the Department of Health, Education, and Welfare relating to the functions transferred by this section;

(E) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(F) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(G) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(H)(i) with respect to and being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;

(ii) under section 405(a)(5) and section 405(c) of the Rehabilitation Act of 1973; and

(iii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(3) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(4) There are transferred to the Secretary all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(5) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 302. (a) There are transferred to the Secretary all functions of the Secretary of Agriculture or the Department of Agriculture (1) with respect to the operation of the Graduate School, and (2) under the National School Lunch Act and the Child Nutrition Act of 1966, except the functions of the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 and the function of the Secretary of Agriculture relating to commodity distribution.

(b) The Secretary shall consult with the Secretary of Agriculture with regard to the preferences of States for and ability of States to use commodities available for distribution.

(c) In setting nutrition standards for the programs transferred to the Secretary by subsection (a), the Secretary shall consult with other Federal agencies having significant responsibility for nutrition policy.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 303. (a) There are transferred to the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories effected by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 304. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense.

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependent children of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education for overseas dependent children of personnel of the Department of Defense and for education of dependent children of personnel of the Department employed in such program.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnl Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(d) Notwithstanding the provisions of section 601, the transfer of functions under susbection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 305. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the

Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM DEPARTMENT OF JUSTICE

SEC. 306. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 307. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 308. (a) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

(b) There are transferred to the Secretary all functions of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 309. The transfer of a function from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on August 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS–16, GS–17, and GS–18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Education Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than fifteen transitional employees;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Department seventy-one additional positions in the competitive service at levels GS–16, GS–17, and GS–18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS–16, GS–17, or GS–18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS–16 positions, 25 percent shall be deemed GS–17 positions, and 12 percent shall be deemed GS–18 positions.

(e)(1) The functions which are administered by the Office of Indian Education established under section 211 and to which section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or other Indian preference laws in effect on the day before the effective date of this Act are applicable and shall continue to be subject to such laws.

(2) Individuals who (A) are, on the day before the effective date of this Act, performing functions subject to section 12 of the Act of June 18, 1934 (25 U.S.C. 472) or other Indian preference laws in effect on the day before the effective date of this Act, and (B) are transferred to a part of the Department other than the Office of Indian Education established by section 211, shall continue to be subject to such laws for the duration of their service in the Department.

(f)(1) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

Sec. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsection (b) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;
(B) Teacher Corps;
(C) Community College Unit;
(D) National Center for Education Statistics;
(E) Office of Career Education;
(F) National Institute of Education;
(G) Office of Environmental Education;
(H) Office of Consumers' Education;
(I) Office of Libraries and Learning Resources;

(J) Institute of Museum Services; and

(K) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) The Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) The Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) The Office of Indian Education of the Department of Health, Education, and Welfare;

(4) The Bureau for the education and training for the handicapped of the Department of Health, Education, and Welfare; and

(5) The Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions of the Secretary in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a) (1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Department of Defense to the Department under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such periods as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel;

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas; and

(C) the performance of the American educational system, as measured by such indicators as the overall results of student testing on generally recognized standard examinations for entrance to secondary and postsecondary institutions;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the

Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from such agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act taken effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not effect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(67) Under Secretary of Education.".

(e) Section 5215 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) Assistant Secretaries of Education (9).

"(123) Director of the Office for Civil Rights of Department of Education.

"(124) Inspector General of the Department of Education.

"(125) General Counsel of the Department of Education.".

(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

"(145) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Welfare, the Department of Education,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND WELFARE

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Welfare with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

CONTRACTS WITH INDIAN TRIBAL ORGANIZATIONS

Sec. 510 (a). The Indian Self-Determination and Educational Assistance Act is amended by inserting after section 102 the following new section:

"CONTRACTS BY THE SECRETARY OF EDUCATION

"SEC. 102A. (a)(1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the

Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

"(A) the service to be rendered to the Indian beneficiaries of of the particular program or function to be contracted for will not be satisfactory;

"(B) adequate protection of trust resources will not be assured by such contract; or

"(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract.

"(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary components of contract performance.

"(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.".

(b) Section 103 of such Act is amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Welfare".

(c) Section 104 of such Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

"(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such development, construction, operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

"(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.".

(d)(1) Section 106(a) of such Act is amended by striking out "102" and inserting "102, 102A,".

(2) Section 106(b) of such Act is amended by inserting "102A," immediately after "102,".

(3) Section 106(c) of such Act is amended by striking out "102" and inserting "102, 102A,".

(4) Section 106(d) of such Act is amended by inserting "102A," immediately after "102,".

(5) Section 106(e) of such Act is amended by inserting "102A," immediately after "102,".

(6) Section 106(f) of such Act is amended by striking out "102" and inserting "102, 102A,".

(7) Section 106(g) of such Act is amended by—

(A) inserting "102A," immediately after "102,"; and

(B) Striking out "Interior and Health, Education, and Welfare" and inserting "Interior, Health and Welfare, and Education".

(8) Section 106(h) is amended by striking out "102" and inserting "102, 102A,".

(e)(1) Section 107(a) of such Act is amended by striking out "Interior and of Health, Education, and Welfare" and inserting "Interior, of Health and Welfare, and of Education".

(2) Section 107(c) of such Act is amended by striking out "Interior and the Secretary of Health, Education, and Welfare" and inserting "Interior, the Secretary of Health and Welfare, and the Secretary of Education".

(f) Section 109 of such Act is amended by inserting "102A," after "102,".

(g) Section 5(a) of such Act is amended by striking out "Interior or the Secretary of Heath, Education, and Welfare," and inserting in lieu thereof "Interior, the Secretary of Health and Welfare, or the Secretary of Education".

(h)(1) Section 8 of the Act of August 5, 1954 (42 U.S.C. 2004b) is amended by inserting "102A," after "102,".

(2) The first sentence of section 6(a)(2) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456) is amended by striking out "amended" and inserting "amended, or the Department of Education Organization Act".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 511. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

Sec. 512. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare, the Secretary of Health and Welfare, or the appropriate official of the Department of Health and Welfare, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

Sec. 513. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

Sec. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate and officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed shown in Roman):

UNITED STATES CODE

TITLE 3—THE PRESIDENT

Chapter 1—Presidential Elections and Vacancies

SEC. 1.***

* * * * * * *

SEC. 19. VACANCY IN OFFICES OF BOTH PRESIDENT AND VICE PRESIDENT; OFFICERS ELIGIBLE TO ACT.—

(a)(1)***

* * * * * * *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of the President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health[, Education,] and Welfare, Secretary of Housing and Urban Development, Secretary of [Transportation] *Transportation, Secretary of Energy, Secretary of Education.*

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

Part I—THE AGENCIES GENERALLY

Chapter 1—Organization

§ 101. Executive departments

The Executive departments are:

* * * * * * *

The Department of Health[, Education,] and Welfare.

* * * * * * *

The Department of Education.

* * * * * * *

Part III—EMPLOYEES

Chapter 53—Pay Rates and Systems

* * * * * * *

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(10) Secretary of Health [,Education,] and Welfare.

* * * * * * *

(15) Secretary of Education

* * * * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(6) Under Secretary of Health[, Education] and Welfare.

* * * * * * *

(67) Under Secretary of Education.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of Health[, Education] and Welfare (5).

* * * * * * *

(41) General Counsel of the Department of Health[, Education] and Welfare.

* * * * * * *

(99) Commissioner of Social Security, Department of Health [, Education] and Welfare.

* * * * * * *

(122) Assistant Secretaries of Education (9).

(123) Director of the Office for Civil Rights of the Department of Education.

(124) Inspector General of the Department of Education.
(125) General Counsel of the Department of Education.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of Health[, Education] and Welfare for Administration.

* * * * * * *

(41) Commissioner of Education, Department of Health[, Education] and Welfare.

* * * * * * *

(43) Commissioner of Food and Drugs, Department of Health[, Education] and Welfare.

* * * * * * *

(52) Commissioner of Vocational Rehabilitation, Department of Health[, Education] and Welfare.

* * * * * * *

(53) Commissioner of Welfare, Department of Health [, Education] and Welfare.
(144) Administrator of Education for Overseas Dependent Children of the Department of Education.
(145) Additional Officer, Department of Education.

* * * * * * *

PUBLIC LAW 90–40

June 30, 1967

AN ACT To amend the Universal Military Training and Service Act, and for other purposes

SEC. 1. * * *

* * * * * * *

DEFERMENTS AND EXEMPTIONS FROM TRAINING AND SERVICE

SEC. 6(a)(2). Commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service while on active duty and assigned to staff the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons, Department of Justice, or the Environmental Science Services Administration or who are assigned to assist Indian tribes, groups, bands, or communities persuant to the Act of August 5, 1954 (68 Stat. 674), as [amended] *amended, or the Department of Education Organization Act* shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4. Notwithstanding the preceding sentence, commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service who, prior to the enactment of this paragraph, had been detailed or assigned to duty other than that specified in the preceding sentence shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4.

PUBLIC LAW 93-203

December 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

* * * * * * *

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health [, Education,] and Welfare, with respect to arrangements for services of a health[, education,] or welfare character under this *Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this* Act, and the Secretary of [Health,] Education [and Welfare] shall solicit the advice and comments of State educational agencies with respect to education services. Such *education* services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provisions of basic education and vocational training directly, pursuant to the provisions of this title, [he] *the Secretary of Labor* shall obtain the approval of the Secretary of [Health,] Education [, and Welfare] for such arrangements.

PUBLIC LAW 93-380

August 21, 1974

AN ACT To extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1974".

* * * * * * *

103(c)(2)(A) * * *

(B) For purposes of this section, the Secretary of Health [, Education,] and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.*

Public Law 93–422

September 21, 1974

AN ACT To extend the Drug Abuse Education Act of 1970 for three years

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

Sec. 2(a) * * *

* * * * * * *

Sec. 5. Technical Assistance—

The Secretary *of Health and Welfare, the Secretary of Education*, and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department of Health **[**, Education, and Welfare**]** *and Welfare, the Department of Education* and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program.

Public Law 93–638

January 4, 1975

AN ACT To provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for

Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Self-Determination and Education Assistance Act".

* * * * * * *

REPORTING AND AUDIT REQUIREMENTS

Sec. 5. (a) Each recipient of Federal financial assistance from the Secretary of [Interior or the Secretary of Health, Education, and Welfare,] *Interior, the Secretary of Health and Welfare, or the Secretary of Education,* under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

* * * * * * *

TITLE I—INDIAN SELF-DETERMINATION ACT

Sec. 101. This title may be cited as the "Indian Self-Determination Act".

CONTRACTS BY THE SECRETARY OF THE INTERIOR

Sec. 102. * * *

CONTRACTS BY THE SECRETARY OF EDUCATION

Sec. 102A. (a)(1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory;

(B) adequate protection of trust resources will not be assured by such contract; or

(C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with

respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary components of contract performance.

(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"*(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.*".

CONTRACTS BY THE SECRETARY OF HEALTH [, EDUCATION,] AND WELFARE

SEC. 103. (a) The Secretary of Health [, Education,] and Welfare is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such Indian tribe to carry out any or all of his functions, authorities, and responsibilities under the Act of August 5, 1954 (68 Stat. 674), as amended: *Provided, however*, That the Secretary may initially decline to enter into any contract requested by an Indian tribe if he finds that: (1) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory; (2) adequate protection of trust resources is not assured; or (3) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract: *Provided further*, That the Secretary of Health [, Education,] and Welfare, in arriving at his finding, shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (A) equipment, (B) bookkeeping and accounting procedures, (C) substantive knowledge of the program to be contracted for, (D) community support for the contract, (E) adequately trained personnel, or (F) other necessary components of contract performance.

(b) Whenever the Secretary of Health [, Education,] and Welfare declines to enter into a contract or contracts pursuant to subsection (a) of this section, he shall (1) state his objections in writing to the tribe within sixty days; (2) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome his stated objections; and (3) provide the tribe with a hearing, under such rules and regulations as he shall promulgate, and the opportunity for appeal on the objections raised.

(c) The Secretary of Health [, Education] and Welfare is authorized to require any tribe requesting that he enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance: *Provided, however*, That each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

SEC. 104 (a) * * *

* * * * * * *

(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such development, construction, operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.

[(c)]*(d)* The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

* * * * * * *

SEC. 105(a) * * *

* * * * * * *

(b) The Act of August 5, 1954 (68 Stat. 674), as amended, is further amended by adding a new section 8 after section 7 of the Act, as follows:

"SEC. 8. In accordance with subsection (d) of section 214 of the Public Health Service Act (58 Stat. 690), as amended, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to section 102, *102A*, 103, or 104 of the Indian Self-Determination and Education Assistance Act".

* * * * * * *

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) Contracts with tribal organizations pursuant to sections [102] *102, 102A*, and 103 of this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the appropriate Secretary, such contracts may be negotiated without advertising and need not conform with the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended: *Provided*, That the appropriate Secretary may waive any provisions of such contracting laws or regulations which he determines are not appropriate for the purposes of the contract involved or inconsistent with the provisions of this Act.

(b) Payments of any grants or under any contracts pursuant to section 102, *102A*, 103, or 104 of this Act may be made in advance or by way of reimbursement and in such installments and on such conditions as the appropriate Secretary deems necessary to carry out the purposes of this title. The transfer of funds shall be scheduled consistent with program requirements and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by the tribal organization, whether such disbursement occurs prior to or subsequent to such transfer of funds. Tribal organizations shall not be held accountable for interest earned on such funds, pending their disbursement by such organization.

(c) Any contract requested by a tribe pursuant to sections [102] *102, 102A*, 103 of this Act shall be for a term not to exceed one year unless the appropriate Secretary determines that a longer term would be advisable: *Provided*, That such term may not exceed three years and shall be subject to the availability of appropriations: *Provided, further*, That the amounts of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of a tribal organization.

(d) Notwithstanding any provision of law to the contrary, the appropriate Secretary may, at the request or consent of a tribal organization, revise or amend any contract or grant made by him pursuant to sections 102, *102A*, 103, or 104 of this Act with such organization as necessary to carry out the purposes of this title: *Provided, however*, That whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective upon a date specified by the appropriate Secretary not more than one hundred and twenty days from the date of the request by the tribe or at such later date as may be mutually agreed to by the appropriate Secretary and the tribe.

(e) In connection with a contract or grant made pursuant to section 102, *102A*, 103, or 104 of this Act, the appropriate Secretary may permit a tribal organization to utilize, in carrying out such contract or grant, existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(f) The contracts authorized under sections [102] *102, 102A*, and 103 of this Act and grants pursuant to section 104 of this Act may include provisions for the performance of personal services which would otherwise be performed by Federal employees including, but in no way limited to, functions such as determination of eligibility of applicants for assistance, benefits, or services, and the extent or amount of such assistance, benefits, or services, all in accordance with the terms of the contract or grant and applicable rules and regulations of the appropriate Secretary: *Provided*, That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals.

(g) Contracts and grants wth tribal organizations pursuant to sections 102, *102A*, 103, and 104 of this Act and the rules and regulations adopted by the Secretaries of the **[**Interior and Health, Education, and Welfare**]** *Interior, Health and Welfare, and Education* pursuant to section 107 of this Act shall include provisions to assure the fair and uniform provision by such tribal organizations of the services and assistance they provide to Indians under such contracts and grants.

(h) The amount of funds provided under the terms of contracts entered into pursuant to sections **[**102**]** *102, 102A*, and 103 shall not be less than the appropriate Secretary would have otherwise provided for his direct operation of the programs or portions thereof for the period covered by the contract: *Provided*, That any savings in operation under such contracts shall be utilized to provide additional services or benefits under the contract.

PROMULGATION OF RULES AND REGULATIONS

SEC. 107. (a) The Secretaries of the **[**Interior and of Health, Education, and Welfare**]** *Interior, of Health and Welfare, and of Education* are each authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this title.

* * * * * * *

(c) The Secretary of the Interior and the Secretary of **[**Health, Education, and Welfare**]** *Health and Welfare, and the Secretary of Education* are authorized to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the respective Secretary or Secretaries shall present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives and shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

* * * * * * *

REASSUMPTION OF PROGRAMS

SEC. 109. Each contract or grant agreement entered into pursuant to sections 102, *102A*, 103, and 104 of this Act shall provide that in any case where the appropriate Secretary determines that the tribal organization's performance under such contract or grant agreement involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any persons; or (2) gross negligence or mismanagement in the handling or use of funds provided to the tribal organization pursuant to such contract or grant agreement, such Secretary may, under regulations prescribed by him and after providing notice and hearing to such tribal organization, rescind such contract or grant agreement and assume or resume control or operation of the program, activity, or service involved if he determines that the tribal organization has not taken corrective action as prescribed by him: *Provided*, That, the appropriate Secretary may, upon notice to a tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat to safety and, in such cases, he shall hold a hearing on such action within ten days thereof. Such Secretary may decline to enter into a new contract or grant agreement and retain control of such program, activity, or service until such time as he is satisfied that the violations of rights or endangerment of health, safety, or welfare which necessitated the rescission has been corrected. Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

ADDITIONAL VIEWS OF MR. PERCY, MRS. HUMPHREY, AND MR. DANFORTH

We support the creation of a Department of Education. However, we oppose the transfer of the U.S. Department of Agriculture (USDA) child nutrition programs into the new Department. A motion to delete the child nutrition programs from S. 991 was defeated in committee by tie vote (8 to 8). The amendment will again be offered on the floor of the Senate.

There are a number of sound reasons for keeping these programs in USDA. First, a Department of Education will be dominated by educators. Educators have had a history of obstructing the placement of these programs within the schools. In testimony received by the committee, the Food Research and Action Center, a nonprofit, antihunger advocacy center stated that:

> A good portion of our effort has been in the area of school lunch and school breakfast program expansion. Time after time we have found that State and local boards of education have been at best uninterested, and at worst obstructionists, in this expansion effort. FRAC and/or legal services attorneys have brought numerous lawsuits seeking to expand school lunch programs in local areas. These lawsuits, brought on behalf of low-income plaintiffs, resulted in the establishment of school lunch programs in Hartford, Conn.; Bridgeport, Conn.; Mount Vernon, N.Y.; Cleveland, Ohio; and the State of Rhode Island, among others. In many of these areas, litigation would not have been required if state and local boards of education and education administrators had viewed the school food programs as integral parts of an educational environment.
>
> In short, in the past, poor people have not been able to look to education administrators and policymakers to spearhead the need for school food programs. Instead, these administrators have often taken the position that such programs are expensive, administratively burdensome, and must take a distant back seat to other education priorities.

In addition to FRAC's testimony, The Children's Foundation testified that it is completing a study on barriers to the implementation of the school breakfast program. The study is entitled "I'd Rather Go to Hell Than Run a Breakfast Program." This was the direct quote of a local school official. It is indicative of the view that many such officials have of these programs.

Second, the transfer will jeopardize the funding of the child nutrition programs. Since educators have not generally viewed nutrition programs as a vital part of the educational process, it is reasonable to assume that a Federal Department of Education would be no more responsive to the importance of such programs. When faced with budgetary constraints, these programs will be seen as expendable. This would be particularly true of those child nutrition programs with little or no connection to school systems, such as the summer food and day care feeding programs.

Third, USDA would still keep the research support vital to these programs. USDA is increasing its research in both nutrition and agricultural economics. It would be counterproductive to remove the child nutrition programs from a Department that is presently equipped to do research in areas directly related to the improvement of these programs.

Fourth, although the administration has pledged its continued support for the commodities aspect of these programs, this guarantee may become worthless several years down the road as the programs become dominated by educators. Moreover, we must not lose sight of one of the original reasons behind the creation of the school lunch program, which was commodity support. Instead of paying farmers not to grow crops, we are paying them for their surplus crops and using those surplus crops to feed hungry children. This is a much more efficient use of taxpayers' money. As the entire Senate Committee on Agriculture brought to our attention:

> The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stabilization to those farm commodities that do not enjoy the protection of Government price support programs.

Fifth, the transfer is opposed by a broad spectrum of groups, including agriculture groups, child-oriented public interest groups, nutritionists, and school food administrators. This grouping includes the American School Food Service Association, which is the largest national association representing people who direct, manage, and work in school nutrition programs at the State and local level. These groups have worked the closest with and are the most knowledgeable on the child nutrition programs.

Sixth, the President's reorganization project is presently conducting a study of the Federal nutrition effort. This study is not scheduled to be completed until next year. As a result, the transfer of these programs at this time would be premature.

Regarding nutrition education, we would again like to quote one of our witnesses, Mr. Hendrik Wentink of the Poultry and Egg Institute of America. He states:

> While nutrition education historically has nowhere received the emphasis it has deserved, it cannot be disputed that the USDA is exerting aggressive leadership in the area today. Secretary Bergland has formed a Human Nutrition Policy Committee to coordinate all USDA nutrition programs including food assistance, safety, quality research, and education. Interim regulations to implement nutrition education grants to the States under the 1977 Child Nutrition Act Amendments have been promulgated. The Department is conducting a novel nutrition awareness project which will test out a multimedia approach for issuing and reinforming

nutrition messages. Authority under recent amendments of the National School Lunch Act to prohibit the sale of "junk food" in participating schools is being invoked. The focus of Extension activities is being expanded to reach urban areas more effectively. The very substantial expanded food and nutrition program within the Extension Service is developing a special program to emphasize nutrition counseling for food stamp users. And these are far from all the fronts of the USDA's nutrition education campaign.

It has been stated that the best place for nutrition education is in the schools. We agree. But we also ask, if educators are so interested in nutrition education, why have they not instituted these programs in the schools? The evidence indicates educators are not interested. In fact, they are so disinterested that they have actually promoted non-nutritious "junk foods" in the schools. In order to raise extra money, they have candy and soda machines in the schools. These junk food machines compete with the nutritious lunches served in the school cafeteria. Congress recognized this problem, a problem created by educators, last year when it mandated USDA to ban the sale of junk foods that compete with the school lunch program. USDA has responded to that mandate and that ban is going into effect this summer. How can we justify transferring these programs to a Department which will be dominated by such insensitive interests?

The question has been asked, "Where will these programs best operate and serve our Nation's children?" The answer is that they will best operate and serve our children in USDA. In recent years, we have to understand that it is vitally important that our food, nutrition, and agricultural policies be coordinated. As Senator Talmadge stated in a letter to the committee, cosigned by the entire Senate Committee on Agriculture, Nutrition and Forestry, USDA is the best place for achieving maximum coordination. In the letter, he states:

> GAO in a recent report on nutrition research, found "a lack of central focus and coordination" to be the No. 1 barrier to progress in the area. We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or departments; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture.

As we have shown, educators have a marked disinterest in nutrition education and in the school feeding programs. On the other hand, USDA has demonstrated great interest and enthusiasm. Transfer of these programs would not solve any problems, it would create new ones. The child nutrition programs should and must remain in a broad-based Department of Agriculture.

CHARLES H. PERCY.
MURIEL HUMPHREY.
JOHN C. DANFORTH.

ADDITIONAL VIEWS OF MR. STEVENS

While I support the general thrust of S. 991, to create a separate Department of Education, I am opposed to the inclusion of the Bureau of Indian Affairs schools and education programs.

Last May, I chaired a Government Affairs hearing, and the position of the American Indian community was made quite clear by the many Indian organizations that testified. The vast majority of Indians and Alaskan Natives are opposed to the removal of education programs from BIA which is responsible for matters affecting their interest. In Alaska, the largest Indian organization, the Alaska Federation of Natives, which represents all Alaskan Natives and Aleuts, opposed this transfer because they have not had enough time to discuss it with their members. They have informed me that the bill also does not adequately address trust responsibility or tribal sovereignty rights.

It is most unfortunate that the committee voted against the majority of the Indian communities wishes, during the same time period when representatives of the Indian nations were dramatically presenting their views to Congress and the administration. The enormous personal efforts made in the longest walk from California to the Nation's Capitol is symbolic of the traditional spirit ever present in the tribes. It seems to me that this Congress should be listening to these Native Americans instead of doing what they think is best for the Indian without proper consultation.

Early in 1976 are administration affirmed that issues affecting the American Indian would be resolved in the tribal council rooms and not in Washington, D.C.

It is distressing to me that this promise was broken. Because of overwhelming opposition in the Indian community, I offered an amendment in committee to delete the transfer of BIA schools and education programs. I will continue to oppose this transfer until the concerns of the Indian nations have been met.

Furthermore, I feel that the civil rights function of the Department of Education should contain an office responsible for addressing the bilingual education concerns of Indians. This office should be totally committed to the many unique problems of the Indian community and staffed accordingly. The problems Alaska has had in striving to meet the Supreme Court mandate in this area, demonstrate the need for a separate Indian division within the Office of Civil Rights.

Alaska has been embroiled in a battle with the Office for Civil Rights for 3 years. Last summer my State had been threatened with administrative hearings and a possible penalty of the loss of all Federal education funds. The State department of education has now reached a general consensus on a bilingual compliance plan. However, I feel if a Native American had been involved in the proceedings from the beginning there would have been more sympathy with the numerous dialects and rural conditions my State must overcome in order to comply with the 1974 Supreme Court decision.

TED STEVENS.

ADDITIONAL VIEWS OF MR. DANFORTH AND MR. ROTH

Our pluralistic, locally controlled system of education is one of this Nation's greatest assets. The establishment of a Cabinet-level Department of Education is not in any way intended or expected to result in expanded Federal involvement in education issues that are the primary responsibility of States and localities. Rather, the new Department is intended to strengthen the capacity of States, localities, and private institutions to meet their educational needs. The Secretary of Education must give high priority to simplifying Federal procedures and eliminating unnecessary requirements and constraints on the recipients of Federal education funds.

In establishing a Cabinet-level Department of Education, the temptation is going to be strong for the new Department to start flexing its muscles, to see itself as the source of all decisionmaking in education. That would be just exactly the wrong approach for it to take. It would be a real departure from what is very important to our tradition as a country, and that is that education is not run from Washington.

It should be made very clear that this bill does not serve as a mandate for the new Department to issue directives and regulations which impose its opinions on local school districts.

It is our intention that the Federal Government should be in the business of assisting and supporting local school districts and State governments as they address the problem of education. Federal education policy should supplement and complement, rather than direct or duplicate, State efforts to meet the Nation's education needs. The new Department of Education should not be in the business of preempting the decisionmaking process and aggregating to itself new powers to manipulate local decisions.

It should be noted that Federal sources provide less than 10 percent of States funding for elementary and secondary education. These funds consist primarily of programs such as ESEA, title I, and vocational education, where the States serve as administering agents for the Federal Government.

The new Department of Education should seek, as one of its primary and first efforts, to reduce the Federal paperwork burden. This burden stems primarily from the requirement that individual school districts report extensively on achievements expected, achievements actually experienced, and financial data associated with narrow categorical programs. California data suggests that the Federal requirements account for 60 percent of the local reporting burden and about 40 percent of the State reporting burden at the primary and secondary level.

The word "targeting" has been used in Washington. Targeting means that the Federal Government will direct its resources and its moneys at local and State governments in a manner calculated to have maximum impact on decisions which traditionally are made locally.

In practice, targeting has come to mean manipulation. With the Federal dollar, we can move State or local governments, manipulating them in the direction we think they should be going. This is a practice which ignores the traditional role of State and local governments, and which wrongly assumes that Federal agencies are better able to make wise decisions than local officials. In establishing a new Department of Education it is not our intention to advance this practice.

John C. Danforth.
William V. Roth, Jr.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

Vol. 124 WASHINGTON, TUESDAY, SEPTEMBER 19, 1978 *No. 146*

Senate

(Legislative day of Wednesday, August 16, 1978)

S 15381

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Madam President, going to the fourth track, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1058, which is the Budget Waiver Act with respect to the pending measure.

The PRESIDING OFFICER. Without

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Madam President, I now ask unanimous consent that the Senate, in accordance with the agreement on the natural gas conference report and without prejudice to the Public Broadcasting bill, proceed to the

be before the Senate no longer than until 3 o'clock p.m. today; and, of course, under the natural gas conference report agreement, anything must be set aside for that conference report if any Senator wishes the floor. After the vote on the motion to recommit today, and still in accordance with the natural gas conference report agreement, if no Senator seeks the floor with respect to the objection, it is so ordered.

The resolution (S. Res. 532) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 991, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 991. Such waiver is necessary because (1) S. 991 is an unusually complex bill which establishes a new Cabinet-level Department of Education and transfers to it the functions of the Education Division of the Department of Health, Education, and Welfare, as well as certain functions of other agencies; and (2) the Administration did not indicate its position on this bill until the middle of April 1978, and did not present substantive comments relative to S. 991 until May 17, 1978. This late action on the part of the Administration made it impossible for the committee to consider and act on the bill by May 15, 1978.

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

consideration of Calendar Order No. 1000, S. 991, the Department of Education Organization Act, with the understanding that there be no amendment on busing received today, and that the bill be before the Senate no longer than until 3 o'clock p.m. today, without any understanding as to when it shall be further called up except that the majority leader, after consultation with the minority leader, may be authorized to call it up at a future date.

Mr. STEVENS. Madam President, reserving the right to object, is my understanding correct that the intent would be to call it up after a vote on the energy bill; is that correct?

Mr. ROBERT C. BYRD. That it would not come up today at all.

Mr. STEVENS. No, the vote on a week from tomorrow.

Mr. ROBERT C. BYRD. Oh, I am sorry if I left that impression. The bill would conference report, the Senate would take up the Public Broadcasting Service bill under the order of yesterday, and I believe there is a time agreement on that; I know there is. Hopefully the Senate can dispose of that bill today.

What I am saying with respect to the Department of Education bill is that it would not come up again today, and it would be up to the majority leader, after consultation with the minority leader, to determine when it would again be called up for the resumption of consideration; and that there would be no busing amendment offered today.

Mr. STEVENS. Reserving the right to object, and again I shall not object, as I understand, this is still subject to concurrence as far as calling up the Department of Education bill again. There are some of us who have amendments; I specifically have an amendment, and I will be out of town on Friday. I know the Senator from Connecticut will be out of town on Thursday. I wanted to make sure that I would not be foreclosed on that amendment.

Mr. RIBICOFF. If the Senator will yield, I will be out of town until Tuesday, so the Senator from Alaska is fully protected.

Mr. STEVENS. I feel confident in that protection, and I do not object.

Mr. ROBERT C. BYRD. For the further information of the Senator from Alaska, we are now operating on a triple track system, and can even go beyond that; so it is a multiple track system.

Is there objection to the request of the Senator from West Virginia?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I hope we can make at least some progress on that measure today.

Mr. RIBICOFF. I thank the majority leader and the acting minority leader for an opportunity to bring up this most important piece of legislation.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment in the nature of a substitute.

I wish to thank Senator PERCY, the ranking minority member of the Governmental Affairs Committee, and the other committee members for their support of this legislation.

We are indebted to American education for the vital role it plays in the development and success of this Nation. Democratic government depends on an informed and educated public. Education is important to the American people. This country was built on the basic belief that hard work, commonsense, and education are the keys to a successful and happy life. A recent Harris poll showed 90 percent of the public surveyed felt "achieving quality education for children" was very important. Another showed 75 percent of those surveyed believe a "free, unlimited education" is a major factor to our country's future success.

Today, more than 50 million people in the United States are directly involved with educ[illegible]n. Total education spending approa[illegible]e $180 billion level, nearly 10 per[illegible]of the gross national product. State and local governments spend more money on education than anything else—approximately 40 percent of their budgets.

Yet today education programs in the Federal Government are buried four and five levels deep within the massive Department of Health, Education, and Welfare. They are scattered among 40 Federal agencies. Their leadership is split between a Commissioner of Education and an Assistant Secretary for Education. They are smothered by the general education programs. Altogether, more than 170 programs would be incorporated in the new Department.

Creation of the new department will provide better opportunities for Congress and the President to focus more clearly on better management of education programs.

The head of the new department, the Secretary of Education, will be more accountable to Congress and the public for Federal education services.

A Secretary of Education will improve the administration of Federal education programs. A major problem in the Education Division of HEW now is that the structure and lines of authority are unclear and often confusion. Education responsibilities are fragmented within HEW between the Assistant Secretary for Education and the Commissioner of Education. Little in the way of responsibility is assigned to the Assistant Secretary. Most programs are under the purview of the Commissioner of Education—a position evidenced by frustration. In the last 12 years, the commissionership has changed hands 13 different times.

A Department of Education would allow education programs to be administered by a clearly ordered structure, where the lines of authority and responsibility are clearly defined. This would be a sound administrative and managerial move. The American Society for Public Administration, for the first time in its history, has endorsed the creation of a Cabinet department—the De-

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the following staffers of the Committee on Governmental Affairs be permitted to remain on the Senate floor during the consideration and votes on S. 991, to establish a Department of Education, and for other purposes: Dick Wegman, Marilyn Harris, Bob Heffernan, and Jon Greenblatt; Charlottee Tsoucalas, Terry Jolly, Bob Harris, Cheryl Davis, Dru Smith, Tom Cator, John Childers, Lawrence Grisham, Brian Conboy, Link Hoewing, Nancy Anderson, Carl Flair, Mary Ann Simpson, Martina Pearson, and Jill Porter; and the following staffers from the Committee on Human Resources: Franklin Zweig, Jean Frohlicker, Marsha McCord, Greg Fusco, and Steve Paradise.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Madam Presdent, for the first time in the history of this body, we are considering legislation to create a separate, Cabinet-level Department of Education.

In January of 1965, I introduced a bill to create a Department of Education. Now, some 13 years later, the full Senate is considering the concept.

More than 60 Senators—Democrats, Republicans, moderates, liberals, and conservatives—have sponsored this legislation. This is not, by any means, a partisan issue.

The Committee on Governmental Affairs gave very serious consideration to S. 991 and reported the bill unanimously. overwhelming and dominant concerns of health and welfare. Their coordination is almost nonexistent.

Although the Federal Government spends more than $25 billion on education for over 300 programs there is no visibility or accountability in the Federal Government. Education is not represented at the Cabinet table with other important concerns such as agriculture, labor, transportation, and housing. HEW's responsibilities are so vast and the HEW Secretary is spread so thinly that inevitably some programs suffer from lack of attention. Education is often the victim of neglect and poor interdepartmental competition with massive health and welfare programs. Out of HEW's $180 billion budget, at least $168 billion will be expended for health and welfare.

The creation of a Department of Education remedies institutional deficiencies presently existing within HEW. By removing education from HEW, we will achieve a number of benefits:

There will be one high-level Federal official who will speak for education in the Federal Government.

The administration of and attention given to all three components—education, health, and welfare—will improve as a result of the reorganization.

By separating education from the overwhelming influences of health and welfare, the Congress will be better able to clearly evaluate budget allotments for education.

The legislation goes far toward achieving a significant measure of consolidation of the widely scattered Department of Education. They state:

> The addition of another Cabinet Department would not unduly stretch the President's span of major organizational control. On the other hand, coordination of educational programs to minimize unnecessary administrative burdens and expense for educational institutions and to rationalize inconsistent educational policies would be facilitated if a Cabinet official were given this as a major assignment.

Coordination is necessary to reduce costs and redtape. The situation today is one where there are many Federal education officials, each promulgating their own rules, their own regulations, and their own paperwork requirements. There is inevitably some overlap and duplication. This increases costs for States and localities. For example, Illinois State Superintendent Joseph Cronin told the Governmental Affairs Committee that his State's education agency employs 20 individuals at average salaries of $15,000 each just to keep up with Federal paperwork.

The Governmental Affairs Committee has considered carefully the question of whether a Department of Education means Federal interference in State and local policymaking. States, localities, and institutions have the constitutional right to determine their own individual educational needs and policies. The Federal effort in education is designed to assist and complement States, localities, and institutions which provide education services. It has important programs in education which greatly benefit States and localities. For example, Federal programs designed to guarantee equal educational opportunities or assist in providing more opportunities for the handicapped to have a quality education are good examples of how the Federal Government assists States and local governments.

Thus, effective management, more visibility, and increased status does not mean "more control." Creating a Department of Education is not a "backdoor" way of controlling education in the United States. Instead, better management of Federal education resources by the Secretary of Education will mean improved accountability, coordination, and advocacy.

I believe the bill before the Senate is a product that reflects careful study.

The bill will significantly improve the design and management of Federal education programs.

It directs the new department to involve parents, students, and the public more directly in developing and implementing education programs.

It stresses the importance of maintaining good intergovernmental relations, and closer cooperation with State, local, tribal, and private agencies.

It balances educational interests by placing them on an equal footing with each other.

It works toward strengthening interagency coordination of Federal education programs.

It gives proper recognition to and increased status for the Department's many and varied components. The bill names high-level officers for:

Intergovernmental relations. An Assistant Secretary will insure a State and local perspective on a continuing basis in all the Department's activities and will work with the Intergovernmental Advisory Council on Education in advising the Secretary of intergovernmental problems, progress, and concerns.

Research and Improvement. An Office of Educational Research and Improvement, containing the National Institutes of Education, the Fund for the Improvement of Postsecondary Education, the National Center for Educational Statistics, and certain science education programs, will assist in the development of new knowledge about the educational process.

Occupational, adult, and community education. This officer will provide needed visibility for education assistance to States and localities in delivering effective education and training and adult community services.

Madam President, the Department has widespread public support. I ask unanimous consent that the list of the more than 70 organizations which support the concept of a Department of Education be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING DEPARTMENT OF EDUCATION

Alliance of Associations for the Advancement of Education.

American Alliance for Health, Physical Education, and Recreation.

Council of Chief State School Officers.

Council of State Administrators of Vocational Rehabilitation (Executive Committee).

Education Commission of the States.

El Congresso.

Home Economics Education Association.

International Council of Fine Arts Deans.

International Reading Association.

Music Educators National Conference.

Music Teachers National Association.

National Art Education Association.

National Association for the Deaf.

National Association of College Wind and Percussion Instructors.

National Association of Elementary School Principals.

National Association of Mexican-American Women.

National Association of Secondary School Principals.

National Association of Schools of Art.

National Association of Schools of Music.

National Association of State Boards of Education.

National Association of State Directors of Migrant Education.

National Audio-Visual Association.

National Committee for Citizens in Education.

National Congress of Parents and Teachers.

National Council of La Raza.

National Council of State Agencies for the Blind.

National Council of Teachers of Math.

National Dance Association.

National Education Association.

National Federation of the Blind.

National Governors Association.

National Guild of Community Schools of the Arts.

National Rehabilitation Association.

National School Boards Association.

National School Public Relations Association.

Elementary and secondary education. This officer will administer approximately $6 billion for elementary and secondary education programs participated in by more than 48 million students.

Postsecondary education. The Assistant Secretary for Postsecondary Education will have program spending authority in the approximate amount of $3.6 billion. He or she will help coordinate programs designed to improve postsecondary educational opportunities.

Indian education. Federal Indian education functions and programs totalling more than $500 million annually would be consolidated into a new Office of Indian Education, headed by an Assistant Secretary for Indian Education.

Child nutrition. Location of children's feeding programs in the new Office of Child Nutrition will provide a uniform administrative chain between the Federal Government and State education agencies which administer 95 percent of the programs at the State level.

Handicapped. An Office of Special Education and Rehabilitative Services will combine the functions of the Office of Education's Bureau of Education for the Handicapped and the Office of Human Development Service's Rehabilitation Services Administration into a comprehensive program of education and rehabilitative services for the handicapped.

Civil rights. An Office of Civil Rights—independent of the Department's programs headed by an executive level IV, who reports directly to the Secretary—will continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities.

American Association of Colleges of Teachers Education.
American Association of Community and Junior Colleges.
American Association of School Administrators.
American Association of University Professors.
American Association of Workers for the Blind.
American Choral Directors Association.
American Coalition of Citizens with Disabilities.
American Dance Guild.
American Dietetic Association.
American Educational Research Association.
American Federation of State, County, and Municipal Employees.
American Library Association.
American Personnel and Guidance Association.
American School Food Service Association.
American Society for Public Administration.
American Theatre Association.
American Vocational Association.
Americans for Democratic Action.
Americans for Indian Opportunity.
Association of Childhood International.
Association for Supervision and Curriculum Development.
Children's Foundation.
Citizens Committee for a Cabinet Department of Education.
Coalition of American Public Employees.
Coalition of Independent College and University Students.
College Art Association of America.
College Band Directors National Association.
College Music Society.
Committee on Research in Dance.
Council for Educational Development and Research.
Council for Exceptional Children.
National Student Association.
National Student Lobby.
National University Extension Association.
National Urban League.
Overseas Education Association.
Speech Communication Association.
State Higher Education Executive Officers Association.
Student National Education Association.
U.S. Catholic Conference Secretariat for the Spanish Speaking.
Young Audiences, Inc.

Mr. RIBICOFF. As my colleagues know, President Carter and Vice President MONDALE have attached a high priority to the establishment of the Department of Education this year. The committee has worked closely and harmoniously with the President's reorganization project for the past year in developing S. 991.

Madam President, for too long education has suffered for lack of attention, status, visibility, and focus in the Federal Government. The Federal education effort is considerable in size. The new department would consist of programs having a total budget of approximately $17 billion. It would rank in size higher than six other Cabinet departments.

Federal education programs are too important to be mismanaged or smothered in bureaucracy. The Federal education effort must be efficient, effective, and helpful to States, localities, and other agencies.

We need a Department of Education, and I urge my colleagues to support this measure.

Mr. DONENICI. Will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I yield.

Mr. DOMENICI. Madam President, I ask unanimous consent that Letitia Chambers and Eileen Winkelman of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, if the Senator will further yield, I ask unanimous consent that Mary Ann Simpson of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Madam President, I ask unanimous consent that the distinguished Senator from Alabama (Mrs. ALLEN) be added as a cosponsor of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I do want to point out that no person in this body is more concerned with the education of our young people than the distinguished Senator from Alabama. The late Senator Jim Allen was a cosponsor of this legislation. I

The Senator from New Mexico (Mr. DOMENICI) for himself and Mr. MELCHER proposes unprinted amendment No. 1841.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, strike out lines 12 through 20, and insert the following:

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not modify or eliminate any eligibility requirments for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the date before the date of enactment of this Act.

(c) The trust responsibility of the United States as contained in treaties, laws, and Executive Orders, administered by the Secretary of the Interior on the day before the date of enactment of this Act for the education and training of Indians, Alaskan Natives, and Aleuts shall be continued by the Secretary and shall not be altered in any way.

On page 57, line 21, strike out "(c)" and insert "(d)".

On page 56, between lines 6 and 7, insert the following:

(e) The provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to all functions administered by the Secretary through the Assistant Secretary for Indian Education—transferred by this Act to the Secretary from the Secretary of the Interior or the Department of the Interior

(f) The provisions of the Indian Self Determination and Education Assistance Act shall be applicable where appropriate to all

shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Indian Council shall not affect its power to function.

(f) The Indian Council shall—

(1) advise the Secretary and the Assistant Secretary for Indian Education concerning priorities and guidelines for the administration of all functions of the Office of Indian Education established in section 211;

(2) advise the Secretary and the Assistant Secretary for Indian Education with respect to the administration (including the development or regulations and of administrative practices and policies) of any educational program in which Indian children or adults participate or from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress), and section 810 of the Elementary and Secondary Education Act of 1965;

(3) review appliactions for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress), section 810 of the Elementary and Secondary Education Act of 1965, and section 314 of the Adult Education Act, and make recommendations to the Secretary and the Assistant Secretary for Indian Education concerning the approval of such applications;

(4) evaluate programs and projects carried out under any program of the Department or the Department of Health and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) assist the Secretary and the Assistant Secretary for Indian Education in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress) and for other functions of the Office of In-

talked with him directly in fashioning this bill. I know what this legislation meant to him.

In many conversations over the past months with the present Senator from Alabama, MARYON ALLEN, she has continuously expressed her concern that we give the children of Alabama and the children of this Nation the best possible education.

We do not believe that the huge expenditures that are being made by the Federal Government today are properly doing the job that has to be done. So much remains to be done that I consider it a privilege and most important to have the Senator from Alabama cosponsor this legislation with us.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call re rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

UP AMENDMENT NO. 1841

(Purpose: to refine certain provisions relating to Indian education)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

functions administered by the Secretary through the Assistant Secretary for Indian education transferred by this Act to the Secretary from the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare

On page 38, line 7, strike out "(d)" and insert "(g)".

On page 69, between lines 2 and 3, insert the following new sections:

NATIONAL COUNCIL ON INDIAN EDUCATION

SEC. 217. (a) There is hereby established as an advisory committee, to be known as the National Council on Indian Education (hereinafter referred to as the "Indian Council"), which shall consist of fifteen members who are Indians, Alaskan Natives, and Aleuts. The members of the Indian Council shall be appointed by the President.

(b)(1) The President shall appoint to the Indian Council—

(A) one individual from each of the twelve service areas or districts, as determined by the Commissioner of the Bureau of Indian Affairs of the Department of the Interior; and

(B) three other individuals.

(2) The President shall appoint members to the Indian Council from lists of nominees furnished by tribal governments. Not more than two of the three members appointed pursuant to paragraph (1)(B) shall be from Indian tribes which are not Federally recognized.

(C) Members of the Indian Council shall be appointed for a term of two years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, seven at the end of one year and eight at the end of two years.

(d) The President shall designate one of the members of the Indian Council as the Chair of the Indian Council.

(e) Eight members of the Indian Council

dian Education established under section 211;

(6) provide technical assistance to local educational agencies, institutions, and organizations to assist them in improving the education of Indian children; and

(7) submit to the Congress not later than June 30 of each year a report on its activities, including—

(A) recommendations concerning the improvement of Federal educational programs in which Indian children and adults participate, or from which they can benefit; and

(B) a statement of the recommendations of the Indian Council to the Secretary and the Assistant Secretary for Indian Education concerning the funding of any such Federal programs for Indian children and adults.

(g) With respect to the functions of the Indian Council under paragraphs (3), (4), and (6) of subsection (f), the Indian Council is authorised to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(h) From the sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the Indian Council to carry out its functions under this section.

REPEAL AND REDESIGNATION

SEC. 218. (a) Section 422 of the Indian Education Act is repealed.

(b) Any reference to the National Advisory Council on Indian Education in any rule, regulation, or law other than section 422 of the Indian Education Act shall be deemed to refer and apply to the National Council on Indian Education established under section 217.

On page 75, line 10, insert "and trust responsibilities" immediately after the word "functions".

On page 82, beginning with line 23, strike out through line 4 on page 83 and insert the following:

"(e)(1) Any function administered by the Office of Indian Education established under section 211 and which is subject to section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or any other Indian preference law in effect on the day before the effective date of this Act shall continue to be subject to such law."

On page 40, in the table of contents, insert immediately after item Sec. 216. the following:

"Sec. 217. National Council on Indian Education.

"Sec. 218. Repeal and redesignation."

Mr. DOMENICI. Mr. President, as a long-time supporter of legislation to create a separate, Cabinet-level Department of Education, I am most pleased that S. 991 has reached the Senate floor today, and hope for its prompt passage. The Senate Governmental Affairs Committee deserves high praise for its commitment to the bill and for its successful effort to bring it to the floor before the close of the 95th congressional session. I commend particularly my able colleague, (Mr. RIBICOFF), and my able colleague (Mr. PERCY) for their leadership in this effort.

I believe it is time to take the "E" out of HEW. Educational matters are not receiving the high priority attention they deserve under the present structure at the Department of Health, Education, and Welfare. I do not believe that is S. 991 proposes that Indian education be transferred from both agencies to the new Department, and creates an Assistant Secretary for Indian Education to administer the programs.

I have long been concerned about the quality of education in schools administered by the BIA, since approximately one-half of all Indian children drop out of these schools before they reach the secondary level. The major mission of the BIA is not (nor was it meant to be) education. By moving Indian schools administered by the BIA to an agency whose sole responsibility is education, I believe the quality of education for our Indian students can be improved significantly. At the same time, the BIA, relieved of the responsibility for running schools, can focus more clearly upon its major missions so that it can more effectively serve the Indian people.

As a Senator from a State with the second largest Indian population in the Nation, I have been very active on behalf of my Indian constituents, and thus have a great interest in all issues affecting Indian people. Because of this interest I attended a portion of the hearing held on this school issue by the Government Affairs Committee. On reading the testimony from the various tribal groups and Indian organizations, I noted that the Indian people are split on this issue, with some favoring the transfer while other groups fear that the transfer would have an adverse effect.

In analyzing the testimony, four major themes were apparent. First, many feared tion Assistance Act to functions admin- Assistant Secretary for Indian Education.

This amendment assures that the provisions of the Indian Self-Determination and Educational Assistance Act apply: First, to programs transferred from the Secretary of Interior without modification, and second, to programs transferred from the Secretary of HEW when such programs are consistent with the intent of that act.

Mr. President, in the bill before the Senate, Indian education is transferred to this new Secretary of Education and to the new department.

Mr. President, the fourth objective of the amendment that is pendinng will:

Create a National Council on Indian Education to be appointed by the President from nominees submitted by tribal organizations. This Council will have extensive responsibilities, including advising the Secretary concerning the administration of all programs for Indian children and setting priorities and developing guidelines, regulations, and evaluations for all functions administered by the Office of Education.

The Council will submit to the Congress each year a report on its activities, along with recommendations for the improvement of Federal education programs serving Indian children and adults.

As a Senator concerned with the needs and the rights of our American Indian population, I feel this amendment will protect their interests while providing an anyone's fault; I just do not think it can happen with a combined department. All too often, educational matters get lost in the shuffle at this burgeoning bureaucracy. Our Nation's commitment to the expansion of educational opportunities necessitates a separate Department of Education devoted solely to educational matters. Support for the measure runs high in my State among educators and parents. It is my hope that the new Department of Education, once it is created, will be more truly responsive to the educational needs of educators and consumers of education programs throughout the country.

My position in favor of this legislation might best be summarized by the closing remarks in my testimony on this issue which I presented to the Governmental Affairs Committee:

> I am an advocate of education. I believe our children are the greatest resources of this country. Just as individual children need attention from their parents and teachers, so education needs priority attention from the Federal Government. I believe the Congress should establish that priority by creating a separate Department of Education.

While I am a strong supporter of S. 991, I do have concerns about the section which includes Indian education programs in the new Department. While I support the transfer of Indian programs to the new Department, do have questions concerning specific legislative language affecting this transfer.

Responsibility for Indian education is currently split between the Office of Education in HEW and the Bureau of Indian Affairs in the Department of the Interior. that the transfer would abrogate the trust responsibility of the U.S. Government with regard to Indian children. Second, there was concern that program eligibility requirements would be changed, eliminating some current pargram eligibility requirements would be changed, eliminating some current participants. Third, there was concern that the gains made by passage of the Indian Self-Determination and Education Assistance Act would be lost. And finally, some felt that the Indian tribes and Indian people would have no control over the schools.

These issues raised by Indian organizations are certainly valid, and I agree with the assessment that a transfer which does not address these issues could have a negative effect for Indian people. I have therefore studied the language of S. 991 and found that certain changes need to be made in order to assure a transfer which will protect the interest of our Indian and Alaskan Native population.

Mr. President, I have sent to the desk an unprinted amendment. It is now under consideration. This amendment addresses the concerns expressed by Indian tribes and organizations. This amendment will:

First. Assure that eligibility requirements for program participation are not modified in any way by the transfer.

Second. Clarify that the trust responsibility of the United States with regard to Indian education will be continued unaltered by the Secretary of Education.

Third. Clarify the applicability of the Indian Self-Determination and Education opportunity for vast improvement in Indian education programs. The most important considerations are our Indian children and the education and opportunities available to them. Therefore, I strongly support the transfer of all Indian education programs to the new Department of Education, with the changes contained in my amendment.

Mr. President, I ask the distinguished chairman and floor manager of the bill if he will engage in a colloquy for clarification purposes with me?

Mr. RIBICOFF. I am pleased to.

May I express my gratitude and appreciation to the Senator from New Mexico for his constructive support. I find it absolutely essential to rely on those Members of this body who have special knowledge and experience in various fields.

The Senator from New Mexico, I believe, has probably one of the largest populations of Indian children in all the 50 States. His experience and knowledge of Indian affairs and Indian education is absolutely essential to assure that what we are doing will actually benefit the Indian children.

I am more than pleased to engage in a colloquy with the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank my good friend.

Let me say, as the Senator knows and as I indicated in my opening remarks, there is not unanimous feeling on this issue among the Indian people. But I do believe the distinguished Senator had a similar experience at one time when we were talking about Indian health years ago.

Mr. RIBICOFF. May I say, when I was designated a member of the Kennedy Cabinet, one of my first discussions with President Kennedy was the basic concern and problem with Indian health and Indian education. The President asked me to look into these matters. I was appalled at the low state of health and education given to the Indians at large cost and what we considered a poor job being done by the Bureau of Indian Affairs.

When I was Secretary, we did get around to doing something about Indian health and transferring it out of the Bureau of Indian Affairs and into HEW where it became a matter of prime concern and prime importance in trying to improve it.

I am sure the distinguished Senator from New Mexico and the distinguished Senator from Arizona on this floor will attest to the great improvement in every phase of health for the Indians, especially in the Western States where they have a large population.

I left the cabinet and never did get around to the second phase of President Kennedy's directive about Indian education. But I did always feel in our surveys that the Indian children were being shortchanged, that for the large sums of money we were spending we were not giving the Indian children the benefit of the education they deserved.

It is my hope that in transferring Indian education to a Department of Education, where it is up front, we will have someone who is concerned with education, who has orders from Congress to do they certainly are not going to control it.

Mr. DOMENICI. As I understand it S. 991 specifically mandates that existing Indian preference laws, where now applicable, shall continue to be applicable in the new Department. Is that right?

Mr. RIBICOFF.: Again, the Senator is correct. The committee fully supports the aims of Indian preference in employment in the programs aiding Indian education. We believe Indian preference should be strengthened in the new Department's Office of Indian Education. Under this bill, Indian preference will continue to apply in exactly the same way it now applies.

However, I do want to point out that the committee does not intend that, under this legislation, Indian preference apply to those schools contracted for under the Indian Self-Determination Act by Indian tribes. Those schools should continue to have the right to hire their own qualified Indian and non-Indian educators, as they wish.

Mr. DOMENICI. I also understand that S. 991 provides for the continued application of the Indian Self-Determination Act in those programs transferred from the Bureau of Indian Affairs. Am I correct?

Mr. RIBICOFF. That is correct. As the Senator knows, it has been 3 years since Congress passed into law the Indian Self-Determination and Educational Assistance Act. The full impact of this landmark legislation has yet to be felt in Indian country. The committee strongly [sup-]fice for Civil Rights authorized in the bill a separate branch for Indian affairs. We believe this will be a strong step to insure that Indian people will not lose their "Indianness" by this reorganization. The Office for Civil Rights will most likely be concerned with maintenance of the trust responsibility, Indian preference in employment and contracts, self-determination and other important rights of the Indian people.

Mr. DOMENICI. As the distinguished floor manager knows, my amendment on Indian education abolished the existing National Advisory Council on Indian Education and replaces it with a new council with broadened jurisdiction.

Mr. RIBICOFF. I commend the Senator from New Mexico for taking this step. It is clearly evident that the mandate of the existing council is not sufficiently broad enough to cover all of the new transferred authorities of the new Office of Indian Education. The new council will go a long way toward giving Indian people more input at the Washington level. I would hope, however, that the President would make a strong effort to reappoint those members now on the existing council to the new council so that they may complete the remainder of their terms. Does the Senator from New Mexico concur with that recommendation?

Mr. DOMENICI. I certainly do.

Mr. President, I thank Senator MELCHER for his assistance in this matter. His support and cosponsorship of this amendment indicates his dedication to the educational needs of our young Indian people.

something about improving the education of Indian children. I know there are some who would like to keep it where it is, but the safeguards of the rights of Indians in self-determination, trust responsibility, and Indian preference must be maintained.

The amendment that has been offered by the distinguished Senator from New Mexico, joined in by the Senator from Montana (Mr. MELCHER), whose State also has a large Indian population, improves what we seek to achieve and makes certain that our objectives are spelled out clearly in the act.

I express my appreciation and gratitude to the distinguished Senator from New Mexico.

Mr. DOMENICI. I understand that the report of the Governmental Affairs Committee on this legislation specifies that the programs, services, and funds administered by the Assistant Secretary for Indian Education not be channeled through State education agencies. Is that correct?

Mr. RIBICOFF. The Senator from New Mexico is absolutely correct. The committee feels there will be more efficient use of Federal Indian education funds whenever there is a direct funding relationship between the Federal Government and Indian tribes and organizations. By transferring these programs to the Department of Education, we do not intend that these Indian education programs be connected to or administered by State education agencies. This is not to say, however, that we are discouraging States from aiding Indian education, but supports the concept of self-determination. We want to make absolutely certain the new Assistant Secretary for Indian Education and the new Office of Indian Education recognize the importance of self-determination and take strong steps to implement the law. We fully expect self-determination will be reinforced and strengthened as a means for increasing the level of local control of education by Indian people.

Mr. DOMENICI. How will S. 991 affect existing eligibility standards for Indian education programs?

Mr. RIBICOFF. The legislation preserves all eligibility standards, of both the Office of Education (HEW) and the BIA Indian education programs. They will not change as a result of this transfer.

Mr. DOMENICI. How will programs and services for school construction be affected by S. 991?

Mr. RIBICOFF. The Governmental Affairs Committee fully intends that with the transfer of the BIA school system, funds and authorities for the construction and improvement of Indian schools will also be transferred to the Department of Education.

Mr. DOMENICI. I think it is important that the new Department fully recognize the special and unique nature of the Indian people's "civil rights." Has the committee considered this?

Mr. RIBICOFF. Yes, the committee has indeed given serious thought to the protection of these unique "rights." The committee report directs the Secretary of Education to establish in the new Of-

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I hardly know where to start my discussion, because I understand that the pending business is the amendment of the Senator from New Mexico, which I probably will support but which I have some qualms about, and that the basic business that confronts us in this early discussion is the transfer of Indian education to a central bureau of education. So I will address myself first to the amendment of the Senator from New Mexico, with some remarks that will apply to any solution we might try to come to relative to Indian affairs.

I am proud to represent my State of Arizona, which has more native Indians than any other State in the Nation. In fact, almost 25 percent of the native Indians of our country live in Arizona. There are 15 different tribes, speaking three different basic language roots, living on 19 different reservations, or about 27 percent of our land.

Mr. President, that very fact should spell out to my colleagues what always has been a basic problem in approaching Indian affairs. We say we want to solve the Indian problem. Well, there are 400 tribes within the continental limits of the United States and 300 tribes in Alaska, and each tribe has a different, specific problem. So when we say we are going to solve the problem of the American Indian, there is no such thing, and there is no way we can do it in one fell swoop.

However, if you were to ask me to name a problem that has been common to all tribes down through the years we have been abusing our Indian friends, it would be education; and if you were to ask my appraisal of the Bureau of Indian Affairs' approach to education, I would have to say that over the years it has been rather dismal.

However, I am happy to report that there has been a turn, particularly in my State, where, as I say, we have native Indians. They speak their own language. They are not too anxious to learn English. They have their own cultures; they do not want to lose their cultures. They have their own religions, and they do not want to lose them. This has been the problem that was set up between the Indian tribes and the Bureau of Indian Affairs.

For example, a young Apache from the San Carlos Reservation—this example could be applied to any one of the tribes—would be sent to a BIA school, where the first thing he was told was that he had to learn English. Most Indian children want to learn English, because they know that, sooner or later, they have to use it in commerce or in getting along with their white friends. But then the BIA approach would be, "You have to forget the culture of your tribe, because you are going to live among a white population whose cultures are different," and the Indian began to rebel.

The Apache did not want to lose the culture that had been handed down

So what happened? When it became very apparent that in some of our larger tribes, the Navaho, the two Apache tribes, the Hopi, and I must say, Mr. President, that as to our tribes—and this is another problem—our tribes range from maybe 25 members to over 100,000 members, and this is true across the United States. So that presents a problem. But what happened when this rebellion set in? A number of us, who were close to the Indians and who lived with them, talked to the BIA and pointed out where they were wrong, that they should not take the attitude that culture was wrong, that the Indian had to change his religion, and we urged them to confer with tribal leaders and chiefly with members of the families, and when these conferences ended the BIA gave up on these ancient approaches and now they teach the native tongue where this was never done before.

Mind you, that is not easy because in the case of the Navaho language, the Hopi language, the Apache languages, which are related to the Navaho, there is no printed language. There is no alphabet. There is no printed vocabulary. So we were successful in getting the BIA to change so that today they stress their native language by teaching it, and I must say very happily that it is also available to white students in our colleges. These languages are so difficult to understand that, for example, as to the Hopi language, I have only known one white man in my life who could speak it, and it was used, as Senators know, dur-

Position of Federally Recognized Tribes or Organizations Representing Federally Recognized Tribes on Transfer of BIA Education to Department of Education

State, tribe or organization opposed to transfer:

Alaska: Akiak Village, Alaska Federation of Natives, Association of Village Council Presidents, and Tanana Chiefs.

Arizona: Ak Chin Community Council, Arizona Inter-Tribal Council, Cocopah Tribal Council, Colorado River Tribal Council, and Fort McDowell Mohave-Apache Community Council.

Havasupai Tribal Council, Hopi Tribal Council, Hualapai Tribal Council, Kaibab Tribal Council, Navajo Tribal Council, Papago Council, Salt River Pima-Maricopa Community Council, San Carlos Council, White Mountain Apache Tribal Council, Yavapai Apache Community Council (Camp Verde), Yavapai-Prescott Board of Directors, and Yavapai Tonto Apache (Payson).

California: Barona General Council, Big Pine General Council, Bishop Tribal Council, Cedarville Rancheria, Covelo Community Council (Round Valley), Dry Creek Tribal Council, Fort Bidwell Community Council, Fort Independence General Council, Hoopa Valley Business Council, La Jolla General Council, Laytonville Generel Council, Lone Pine Tribal Council, Manchester Community Council, Morongo General Council, Pala General Council, Pauma Gen-Council, Pechanga Tribal Council, Rincon Business Committee, San Manuel General Council, San Pasqual General Council, Santa Rosa General Council Rancheria, Santa Rosa General Council Reservation, Santa Ynez General Council, and Soboba General Council.

Tuolumne Community Council, Twenty-nine Palms General Council, Viejas Tribal through the centuries—a culture, I must say, on which those of us who live in the Southwest depend upon very heavily for our own cultural sources.

Then came the problem of religion. Some of our tribes—such as the Hopi Tribe and the Zuni Tribe in the State of New Mexico—have more than 250 gods. Some of them worship legends. Some, like our Navaho people, will find their gods living on five different mountains, and every mountain has something to do with an aspect of their life. They believe in these things.

For example, the Navaho, who weave the beautiful rugs, were taught that the "Spider Woman" taught them how to weave; and out of respect to the "Spider Woman," they always leave a little hole in the blanket, so the "Spider Woman" can get through it. This has been handed down.

They still practice in their religion what we call sand paintings, which, in effect, become an alter for the person who is being prayed for.

When the Bureau of Indian Affairs began to tell the Indian child that he would have to give up these concepts of religion and take up white man's religion the Indians really rebelled. In fact, it got so bad that up to about 15 years ago the Indians would not allow their children, in the main, to attend schools. This was not true across the board. We had some tribes who lived much closer to white communities than the one I have been talking about where they more or less in a natural way had taken on many of the things that the BIA tried to teach. ing World War II in the Pacific, in the open, and it so confused the Japanese that they gave up ever trying to understand either the Hopi or the Navaho.

They now stress culture, the importance of the Indian child retaining the ability to produce pottery, to produce baskets, to produce rugs, to produce silver, and so forth and so on.

They stress their religion and stress their language, although they do stress English to the point that the Indian children learn it.

Mr. President, there is no great feeling of unanimity amongst the Indian tribes in this country in having their education transferred to one central agency.

I have, for example, a list here of practically every State, and in each of these States practically every Indian tribe is represented as being opposed to it.

My friend from New Mexico, of course, shares with my State the gigantic Navaho population, and yet in his State the Mescalero Apache Tribal Council, the Navaho, the Picuris Pueblo, and the Tesuque Pueblo Council all oppose it.

In my State every tribe opposes it, and I am going to have this printed in the RECORD, Mr. President, so that my colleagues will have the benefit of knowing the tribes in their State that now oppose the transfer of education to a central agency.

I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Council (Baron Long), Resighnini Rancheria, Inter-Tribal Council of California, Big Laguna Rancheria, Bridgeport Indian Colonoy, Cold Springs Rancheria, Hopland Rancheria, Stewart's Point Rancheria, Cycuan Reservation, and Table Mt. Reservation.

Colorado: Southern Ute Tribal Council, and Ute Mountain Tribal Council.

Florida: Micoousukee Business Committee, and Seminole Tribal Council.

Idaho: Coeur d'Alene Tribal Council, Fort Hall Business Council (Shoshone-Bannock), Idaho Inter-Tribal Conference, Kootenai Tribal Council, and Nez Perce Tribal Executive Committee.

Iowa: Sac and Fox Tribal Council.

Kansas: Iowa Executive Committee, Kickapoo Tribal Council, and Prarie Potawatomi Business Committee.

Michigan: Bay Mills Executive Council, Hannaville Community Council, Inter-Tribal Council of Michigan, Keweenaw Bay Tribal Council (L Anse), Michigan Inter-Tribal Education Committee, and Saginaw-Chippewa Tribal Council (Isabella).

Minnesota: Boise Forte Reservation Business Committee, Fond du Lac Reservation Business Committee, Grand Portage Reservation Business Committee, Leech Lake Reservation Business Committee, Mille Lacs Reservation Business Committee, Minnesota Chippewa Tribal Executive Committee, Red Lake Tribal Council, and White Earth Reservation Business Committee.

Montana: Blackfeet Tribal Business Council, Chippewa Cree Business Committee (Rocky Boy's), Crow Tribal Council, Flathead Tribal Council, and Fort Belknap Community Council.

Nevada: Duckwater Shoshone Tribal Council, Fallon Paiute Shoshone Business Council, Pyramid Lake Paiute Tribal Council, and Shoshone Paiute Business Council (Duck Valley).

New Mexico: Mescalero Apache Tribal Council, Navajo, Picuris Pueblo Council, and Tesuque Pueblo Council.

New York: Cayuga Nation, Oneida Nation of New York, and St. Regis Mohawk Council of Chiefs (Akwesasne).

North Dakota: Devils Lake Sioux Tribal Council (Ft. Totten), Port Berthold Tribal Business Council, Standing Rock Tribal Council, Turtle Mountain Tribal Council, and United Tribes Education Technical Center.

Oklahoma: Absentee-Shawnee Business Committee, Caddo Executive Committee, Cheyenne-Arapaho Business Committee, Citizen Potawatomi Business Committee, Comanche Business Committee, Creek Nation of Oklahoma, Delaware Executive Board, Eastern Shawnee Tribal Council, Fort Sill Apache Business Committee, Iowa Tribal Council, Kaw Business Council, Kickapoo Council, Kiowa Business Committee, Miami Business Committee, Otoe-Missouri Business Committee, Ottawa, Pawnee Business Council, Peoria, Ponca Business Committee, Quapaw Tribal Business Committee, Sac and Fox Business Committee, Seminole Nation (Oklahoma), Seneca-Cayuga Tribal Business Committee, Tokawa Business Committee, Wichita Executive Committee, and Wyandotte Council.

Oregon: Umatilla Board of Trustees and Warm Springs Tribal Council.

South Dakota: Lower Brule Sioux Tribal Council, Oglala Sioux Tribal Council (Pine Ridge), Rosebud Sioux Tribal Council, Sisseton-Wahpeton Sioux Tribal Council, Standing Rock Sioux Tribal Council, and Yankton Sioux Tribal Business and Claims Committee.

Utah: Uintah and Ouray Tribal Business Committee.

Washington: Chehalis Business Council, Colville Business Council, Kalispel Business Committee, Lower Elwha Community Council ...

... ucation programs from the Bureau of Indian Affairs to the proposed new Department of Education.

We are opposed to the Domenici-Melcher amendments, which do not meet the wishes or needs of American Indian Tribes.

American Indian people believe it is the proposed transfer, itself which would be harmful; and that no amount of perfecting amendments will protect our efforts to provide the best education possible for our children.

Sincerely,

ALBERT W. TRIMBLE,
Executive Director.

Mr. GOLDWATER. Mr. President, I do not want to seem overly critical of putting education in one department, but I can recall when I first came to this body nearly 25 years ago, I wholeheartedly opposed Federal aid to education and I grew to be known as an opponent of education. No. I was an opponent of the Federal Government having anything to do with the education of my children in the elementary schools.

I do not think we have to look far to find out that those of us who opposed Federal aid to elementary education were absolutely right. I think I can withstand any argument that never in the history of this country has elementary education been at such a low level as we find it today, and the States are very rare that can turn out acceptable students for colleges from their elementary school system.

I do not want to risk having a central bureau of education. I am going to oppose this when it comes to a final vote.

So I am going to vote for the Domenici amendment, because I think it is worth a try, and I am going to oppose putting Indian education under any central agency.

Lord knows, it is bad enough now without messing it up more by putting it under some Federal bureaucracy.

I thank the Chair.

Mr. PERCY. Mr. President, the Senator from Illinois has benefited from listening to the discussion by our distinguished colleague from Arizona, Senator GOLDWATER, who has had a lifelong interest in Indian affairs and has probably done more than any other individual of whom I know to further their legitimate interests and to assist them in every way to stand on their own feet and to be proud Americans.

I know that this comes as probably somewhat of a surprise, but we have 20,000 American Indians living in the city of Chicago. Certainly, regarding the education of those who have decided to move to an urban community, such as Chicago, there is an absolute necessity for them to have a command of the English language.

The Senator from Illinois has been disturbed that once the Indian leaves the reservation, in a sense, and moves into an area like Chicago, the reach, assistance, and help to the American Indians has not always been there.

The Senator from Illinois would have to really disagree, however, with my distinguished colleague that there has been cil, Lummi Business Council, Makah Tribal Council, Nisqually Community Council, Puyallup Tribal Council, Spokane Business Council, Squaxin Island Tribal Council, Tulalip Board of Directors, Upper Skagit Tribal Council, and Yakima Tribal Council.

Wisconsin: Great Lakes Inter-Tribal Council, Inc., Lac Courte Oreille Governing Board, Lac du Flambeau Tribal Council, Menominee Restoration Committee, Oneida Executive Committee, Red Cliff Tribal Council, Sokaogon Chippewa Tribal Council (Mole Lake), Stockbridge-Munsee Tribal Council, and Wisconsin Winnebago Business Committee.

Louisiana: Chitimacha Tribal Council and Coushatta Tribal Council.

National Indian Organizations Which Oppose Transfer of BIA Education to Department of Education

National Congress of American Indians.

National Tribal Chairmen's Association.

American Indian Scholarships, Inc.

National Indian Education Association.

American Indian Higher Education Consortium.

Coalition of Indian Controlled School Boards.

Association on American Indian Affairs.

Mr. GOLDWATER. Mr. President, I also ask unanimous consent that a letter from the National Congress of American Indians, which also opposes this transfer, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

September 15, 1978.

Re S. 991.

Dear Senator: On behalf of the National Congress of American Indians, we wish to reaffirm our strong support of the floor amendment to be offered by Senator Stevens to delete the proposed transfer of Indian Ed-

because I have seen no proof that the Department of Health, Education, and Welfare has adequately handled the educational problem at our elementary level. Forget the college level. The Federal Government has been tied up in colleges ever since we have been a republic. It sometimes makes me laugh to hear people talk about the separation of church and state when this Federal Government has been supporting some of our largest colleges ever since we drew up a declaration.

So, Mr. President, I hope that when the time comes for a vote on the Domenici amendment we can agree to it. I do not think it will do a lot of good, because we have too much dissension between the Indian tribes, and the Senator knows it.

It took us over 25 years in Arizona to bring our 15 tribes together so that they would even talk to each other. It was sort of a victory like we celebrated last night. And even with them now talking to each other we do not get much done, because they are still dominated by one big tribe and the little tribes do not like that.

I do not see how moving Indian education under one department is going to help them, because we have not solved the basic problem of really how to educate them, and I doubt seriously that a department that has not yet contributed anything to the betterment of education amongst white children can hope to do any better in the education of the children of some 400 tribes within our continental limits and 300 tribes in Alaska.

any relationship between the poor quality of education we may have in various areas of the country at the primary level, and the Federal Government's becoming involved. I think the Senator from Illinois would have to say that the quality of education would have been worse. I cannot see that the 8.2-percent average provided in Federal support for the education of our children is in any way controlling our educational system. It is an assist and a help in many areas. There is too much paperwork involved and too much in administrative costs and I would prefer block grants, but I do not think that we can say that the Federal Government is controlling education.

The first priority must be put on moving toward a balanced budget. But as we can relieve costs in other areas we will probably have to assist in education more, providing we can do so in such a way that it leaves control absolutely in the hands of the local community without the hand of the Federal Government intervening.

I would like to go to the amendment of my distinguished colleague, Senator Domenici, because the Senator from Illinois——

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. PERCY. Yes, of course.

Mr. GOLDWATER. Mr. President, the Senator from Illinois has brought up yet another problem, and that is regarding those Indians who move from reservations to the cities. Here again you will find no general pattern.

For example, on the reservations of New Mexico, Utah, and Arizona, where the native Indians live, most Indians who go to school, graduate from college, go back to live with their families to try to improve the life of their families.

I might say that at the present time, and I believe I am right, we have now over 3,000 graduate degrees among our college people; I think we have now 10 Ph. D.'s, two lawyers, and one doctor, and this has been done, I must say, without the aid of the Federal Government. It has been done with tribal funds.

When the Senator gets to the question of what happens to an Indian who comes to Chicago who cannot handle English, then there is a different problem. I think that is a problem that can be handled. If an Indian decides to leave the reservation, I think in the school system of every city there should be a training school—I forget what we used to call it—where basic skills are taught, where the English language is taught so that if he wants to stay, he will not work with any handicap.

We find, say, a Navajo who wants to leave a reservation and come down South to work in the field, he has very little trouble getting along, because he has had a basic knowledge of English. But this is just another problem.

Before the Senator engages with my friend from New Mexico in colloquy I will point out that my chief worry about Federal aid to education has always been that the Federal Government has got its hand too far into the business of running schools in my district. They tell our school system what books are appropriate; they establish standards for teachers; they establish standards for maximum leeway in the local community and at the State level. That kind of approach strengthens the Federal system, and I hope we can move in the direction of bloc grants.

Now, to return to the amendment of the distinguished Senator from New Mexico. As I understand it, the amendment now before the Senate would create a National Council on Indian Education; clarify the applicability of the Indian Self-Determination Act and Education Assistance Act to functions which would still be administered by BIA; clarify the trust responsibility of the United States regarding Indian education; and assure that the eligibility requirements for program participation not be modified in any way by the transfer.

If that is the correct understanding of the amendment, the Senator from Illinois would certainly find this an improvement over the pending legislation, and would find it very acceptable. I know of no objection on this side of the aisle.

Mr. DOMENICI. The Senator is correct in his assumption of what it does. As I indicated in my remarks regarding my amendment—and the Senator from Illinois was unavoidably detained at that point—we went through the record of the hearing and found that wherever there were objections by the Indian people or Indian tribes and groups that basically they fit in these categories, and we have attempted to cover all of them by this amendment as best we could. The Senator is absolutely correct.

Mr. PERCY. Mr. President, I ask unanimous consent that Lenora Moragne the need of the American Indian people, and I do not think it meets their objections as they presented them to the committee and presented them to those of us who attempt to speak for the Indian people here in the Senate.

Mr. RIBICOFF. Mr. President, the Domenici amendment is acceptable to the manager of the bill. I think it is an excellent amendment. It improves the bill and helps clarify any questions on Indian education.

The PRESIDING OFFICER. The Senator from South Dakota was seeking recognition next.

Mr. ABOUREZK. Mr. President, I just want to say that I would like to be heard a little bit longer in debate on the Stevens amendment, but I will not be able to be present, because I have another commitment I have to get to now. But, before the Senate acts on this amendment, I would like to say a word or two about the Stevens amendment and the proposal by the Government Affairs Committee to transfer Indian education out of the Bureau of Indian Affairs into the new Department of Education.

This is one of the most difficult decisions I have had to make since I have been in politics. The reason is that a great many Indian tribes—not all of them, but a great many—are opposed to a transfer of Indian education functions out of the BIA.

I do not pretend to speak for the Indian people in any respect, but I want to try to describe the relationship between the Indian tribes and the Bureau of Indian Affairs since I have pay. The National Education Association, I think we can say today, is probably the most powerful union in the United States.

My children are all educated or have been exposed to it and have taken various degrees. But I would rather have the parents of my grandchildren have something to say about what the school is going to be like. If they do not like the books that are being used they have a right in Maricopa County, Ariz., to say so, not to be told by some bureaucrat 2,500 miles away in Washington "We know what is best for your child." That, I have to say to my good friend from Illinois, is my basic worry.

I agree with him if we can make this money available in block grants, just write out a check to the State of Illinois or the State of Arizona and get the meddling and no-nothing hands of Washington out of it, I think you would see a great improvement in our educational system.

I thank the Senator for allowing me to finish my little colloquy.

Mr. PERCY. I appreciate the Senator's comments very much, indeed. I think in revenue sharing we have demonstrated that we do best on the Federal level by raising the money and then granting it back to the States and local communities in such a way that there is a minimum of overhead. One-thirtieth of 1 percent is the estimated cost of supervising the revenue-sharing program, which dispenses 6.5 billion a year. We set that up originally so that there would be a minimum amount of paperwork, a minimum amount of bureaucracy, and a

of Senator DOLE's staff have the privileges of the floor during the discussion of and votes on the pending legislation; and also Alan Bennett of the Governmental Affairs Committee staff, and Eric Hultman of the Judiciary Committee staff, have the same privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I shall not oppose the amendment of the Senator from New Mexico, but I want to make it clear that it does not obviate the need for my amendment, the amendment I shall offer, as soon as the Senator from New Mexico's amendment is disposed of.

It is my understanding that the committee will accept the Domenici amendment. The National Congress of American Indians and all of those with whom I have been working, in connection with the problem pertaining to the transfer of Indian education programs from the BIA to the new Department of Education, are opposed to the Domenici amendment.

I see no reason to have a vote on it, however, because in the event my amendment is adopted, it would strike the section that the Domenici amendment would amend, and it is my understanding that my amendment would carry with it the language of the Domenici amendment in the event it would be adopted.

I just want to make certain the Senate understands that this amendment is not acceptable to the American Indian tribes. It does not have the support of the organizations which do articulate

been privileged to deal in the area of Indian affairs. It is a kind of love-hate relationship. In fact, they severely and vehemently dislike the Bureau of Indian Affairs and the patronizing attitude and manner with which the BIA treats tribes and the Indian people themselves. But any time that anybody says "We are going to abolish the BIA" or abolish one of the functions of the BIA, the Indians are the first to rush to their defense.

The reason for that is, I think, that the Indians feel the BIA is all they really have. They are pretty vulnerable. They are subject to attack by the dominant society, by the power establishment in any community in which they live, and they are very much afraid to have any other agency try to represent them, even though they will be the first to confess that the Bureau of Indian Affairs does the poorest job of anybody they can imagine. I do not think any Member of this body will disagree with that.

So my policy has always been to try to do legislatively what the tribes have indicated they wish or want me to do. I would say this is the first time I have departed from that, and I want to make clear my reasons why I am supporting Senator RIBICOFF's and Senator PERCY's attempt to transfer the Indian Education Office out of the BIA into the new department.

I support it simply because I think the very vicious training ground of Indian politics, which is manifested primarily in the area offices around the country, has taken over in this case. Any time the Bureau of Indian Affairs and its very practiced bureaucrats see a threat to their survival, to their jobs, to their positions, they run to the tribes and say, "This is tantamount to termination."

The word "termination" to Indians is a word like "extermination" is to Jews; it is that serious to them. Any time the Bureau of Indian Affairs talks to the Indian people and says "You are going to be terminated" by this law or this action, they immediately rush to the defense of the Bureau of Indian Affairs, and that is the design. That is deliberate. That is exactly why the bureaucrats do it.

In this instance, I believe the best thing that can happen for the country and for the Indian people is to transfer education out of the Bureau of Indian Affairs and the hopeless state in which it is found in that agency. I do not know how well the Department of Education will do it, but they cannot possibly do it any worse than the Bureau of Indian Affairs has done, and for God's sake I hope they can do it better.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. GOLDWATER. Mr. President, I find myself in absolute and complete accord with my friend from South Dakota in his remarks about the BIA. They do try to prevail on Congress, they do try to prevail on the tribes.

But as I said before the Senator came to the floor, as bad as the BIA has been, I think we have in HEW a perfect example of how not to run the country. That is the major reason why I am going to support this bill. Too often when outstanding educators come into HEW to administer education programs, they feel the frustration, they feel the lack of progress that has been called to our attention by the distinguished Senator from Arizona. We realize, with all the money we are spending and the lack of progress that is being achieved, the time has come to pull all the education programs under a Secretary of Education who has the necessary authority.

Just a year ago the Commissioner of Education had to go to a conference with the President at the White House. When he came to the gate, the attendant at the gate did not know who he was and would not let him in. You cannot imagine that happening with a member of the Cabinet; at least he could come in by the door. The Commissioner of Education cannot come in the front door.

I am deeply impressed with the discussion that has taken place. I think it is most important to have this discussion between the Senator from Arizona, the Senator from Alaska, the Senator from New Mexico, and the Senator from South Dakota, because we are involving here men who have specific knowledge and experience with Indians and Indian education. The time has come to bring these matters out in the open, because the statistics we have on Indians show that Indian education is an absolute disgrace, that the Indians are being shortchanged. We find that the record shows that today the achievement rates of Indian students continue to stay far below the national average. Dropout rates for Indian rights. This has been doubly assured by the Senator from South Dakota.

The Senator from South Dakota has talked to me numerous times, and he has told me of his concerns. He has told me about the rivalries. He has told me of his commitment to the welfare of Indians. I do not think anyone in this country has to have an explanation from the Senator from South Dakota when it comes to Indians, and everything that has to do with Indians and human beings. I welcome his support for this improvement.

May I say to the distinguished Senator from Arizona, irrespective of when or how this bill comes into existence—and I hope that the Indian education will be part of this measure—I personally will continue to work with the Senator from Arizona, the Senator from New Mexico, the Senator from South Dakota, and the distinguished chairman of the Subcommittee on Human Resources, the Senator from Rhode Island, to assure that we improve the education of Indian children.

I think one of the great disgraces in America in the treatment of the lowest ebb of any segment of the American population must be reserved for the Indians of our Nation.

Out of this colloquy, I am positive will come a great improvement in Indian education, the colloquy from the people on this floor who are for this measure and those who are against this measure.

I express my appreciation and gratitude to the Senator from South Dakota, ing to object to transferring this function, not that I think they are going to be any better off under BIA, particularly, but at least we have the BIA moving more in the Indians' direction now than they ever have before. I have seen such disastrous results to education under HEW that I cannot abide the thought of extending that to any other group of people. I just hate to think of an education department having anything more to do with teaching white children or black children or Mexican-Americans. They just are not geared to do the job, and the major reason, I believe, is that they are under the complete domination of the National Education Association. I would rather take my chances as a part of the BIA than to join the new Department of Education.

Mr. RIBICOFF. Mr. President, if the Senator will yield for a moment, I think this colloquy between the Senator from Arizona and the Senator from South Dakota indicates the need for a Department of Education.

I agree completely with my distinguished colleague that education under HEW has not done the job. Let me explain something to the distinguished Senator from Arizona.

In a period of 12 years, we have had 13 different Commissioners of Education. There has been no continuity. The Secretary of HEW has so many programs, so many tasks, and so many burdens, the one segment of the department that gets the least attention is education. That was a concern of mine when I was Secretary, and it has been a concern of every succeeding Secretary. When these outdian children at the elementary and secondary level exceed 50 percent. Dropout rates for Inlian students in post-secondary institutions exceed 75 percent.

I listened with a great deal of interest to the deep knowledge of the mores, experience, and customs of the Indians in Arizona as related by the Senator from Arizona. That is the first I had ever heard it. I respect it, and I respect the need and the desire of the Indians to preserve their traditions. I love traditions. I do not want to eliminate tradition. I think it is absolutely essential that we keep in continuity the past, the present, and the future. A society disintegrates which dishonors the past.

But what we are seeking, with the help of the Senator from New Mexico and the Senator from South Dakota, is to try to assure that as a result of this debate and discussion, when the Secretary of Education comes into office, when there is an Assistant Secretary for Education in Indian Affairs or Indian Education, they will look at this record and understand that there is a concern.

The concern is not just on the part of Senators from States with Indians; it is a concern that every American has, a concern that every Senator has, to improve education and not to neglect the Indians, not to neglect the Indian children.

That is why I accepted the amendment by the Senator from New Mexico and the Senator from Montana.

I felt that what they were doing was nailing down, and nailing down tightly, that there would be no encroachment whatever on Indian prerogatives and the Senator from New Mexico, and the Senator from Arizona, whether they support this proposal or not.

Mr. ABOUREZK. Mr. President, I think what Senator GOLDWATER said about educational programs in HEW severely lacking is very accurate. I do not disagree with that at all. Like Senator RIBICOFF, I am very hopeful [illegible] things will improve under the Department of Education.

I want to say another word about the Bureau of Indian Affairs, and the area directors in particular who have mastered the art of Indian politics to probably the highest degree. One director of the Indian health service said in my presence once that Indian politics would be a good training ground for anybody who wants to run for President. I think it is probably true. It is the most cutthroat kind of politics I have ever seen in my life. Anybody who has been involved in it would not disagree with that.

I was going to use another word there but I thought better of it. [Laughter.]

In any event, I had a hearing earlier this year on the Bureau of Indian Affairs. One of the witnesses used to be a superintendent in the Bureau of Indian Affairs. He later came on my staff as an Indian specialist after he left the Bureau of Indian Affairs. In fact, I hired him from the Bureau of Indian Affairs. He had more knowledge of the internal operations of the BIA than anybody I had ever seen. He was a critic of the BIA who had worked for them for years and maintained his honesty and independence all that time, which is very difficult to do.

He described the actions of the area directors and those other politicians, bureaucrat politicians, in the Bureau of Indian Affairs. He described them with two words: survival management. He said it is survival not of the Indian people, but of the bureaucrats in the BIA. That is all they are concerned about, nothing else. Survival of their jobs, of their positions, of themselves. And the more the Indians fail, the more happy they are and the more successful they become. That is exactly what it is.

No matter how bad it is in the Department of Education or in HEW, I do not think it can be as bad as in the Bureau of Indian Affairs. I will say why. Even though they stopped the practice, for a number of years they were experimenting on Indian children on how to get rid of the Indian problem by getting rid of Indians. They did it by taking children out of their homes. They took them away from their mothers, took them to a broading school, and never let them see their families again.

They have stopped that practice, thank God. But who knows when this bunch of experimenters will start it again? If there is a permissive Congress, if there is nobody here jumping at them, they might just try it all over again. They say one way to treat the Indians is this way and another is that way, but, "We know what is good for the Indians."

Mr. GOLDWATER. Will the Senator yield?

Mr. ABOUREZK. I yield.

When it comes time to getting these children in school, talk about a problem of busing. We have been wagonning and busing Indian children as long as I can remember, trying to get them to the few schools that we can afford. I do not advocate that we build a school at every crossroads. We could not do that.

For example, children who live where the Senator and I have just visited, in Black Mountain, live 40 miles from the nearest high school. So they ride horseback or they walk and stay in the town where the high school is.

This is not going to be an easy problem to change. I would hope that we could magically bring these seminomadic peoples into living in the communities where they could develop schools, hospitals, and their own industrial abilities.

I might mention that when we are talking about Indians, particularly the Indians I know, we are not talking about what I would call dumbbells. The highest IQ's known to this country come out of the Hopi Indian children. Do not ask me why. We have been investigating that for years. But I can say that standing outside the Indian school in Phoenix will be all of the electronics people from the factories around Phoenix, waiting to grab ahold of a Hopi young man. Here is a young man who probably never saw a light bulb before he went to school. Yet give him 2 months on schematic drawings and he can outproduce any white man in the institution. Why? We do not know.

over time. The Senator is entitled to whatever time he wants.

Mr. STEVENS. I have the management of the time on this side. Does the Senator from Oklahoma wish some time?

Mr. BARTLETT. Yes, I should like to speak on this if someone will yield to me. I do not know whether the Senator has any time or not.

Mr. RIBICOFF. There is a half hour on the Domenici amendment, but I would be pleased to yield on the bill to the distinguished Senator from Oklahoma.

Mr. DOMENICI. I wonder if the Senator from Oklahoma would have any objection to adopting the Domenici amendment? I understand the Senator from Oklahoma wants to oppose the transfer. However, this has nothing to do with the Domenici amendment.

Mr. BARTLETT. I wanted to speak very briefly on the amendment. I oppose the amendment.

Mr. DOMENICI. Fine.

Mr. BARTLETT. Mr. President, I have here from Albert W. Trimble, executive director of the National Congress of American Indians, the letter which was introduced earlier by the distinguished Senator from Arizona (Mr. GOLDWATER). In that letter, on behalf of the National Congress of American Indians, he expresses strong support of the floor amendment by Senator STEVENS. He also opposes the Domenici-Melcher amendment, which does not, according to him, meet the needs or wishes of the American Indian tribes.

Mr. GOLDWATER. I cannot argue with what the Senator said about the Bureau of Indian Affairs. I fought this group before I got into politics. I have tried my influence on every President I have known. I have tried all during my life to get something done about it. As the Senator said, they are a pretty powerful bunch. I think one of the mistakes I made in 1964 was I did not go to their school long enough.

If the Senator will further yield for a moment, I just want to relate a problem or two that we are going to be faced with, and which the BIA is faced with.

I have to say that in my first 12 years here I served on the Educational Subcommittee and I had the pleasure of being chairman of it for one term. The distinguished chairman from Connecticut has mentioned the record of Indians. I think if we took it across the board, the record might even be worse. We can take isolated cases of isolated tribes where their school attendance records are as good as the whites, where their ambition to go further in education is every bit as good as the whites. I cannot say that these are in the majority by any means, but they do exist.

The Senator from South Dakota is well aware of the problem that I am going to mention. The biggest tribe in this country, the Navaho tribe, almost 140,000 people, live in what we call seminomadic conditions. They do not live in pueblos like the Hopis, Zunis, and other tribes in our Southwest. They live in isolated family groups. Here there may be two or three hogans, which is what they call their house, and over here, 10 miles, is another one.

Two of the best men I have ever appointed to the military academies have been Hopi Indians. They outperformed the whites all around the periphery of the big reservation.

So, again, we are not dealing with people who do not have basic knowledge. We are dealing with people who just have not had exposure to schools. I must say where they have been exposed to schools they have not been the kind of schools we would like to see.

In summing up, Mr. President, we do have problems. I do not care whether it goes over to another bureau or remains with the Bureau of Indian Affairs; getting our Indian children to school or getting them to stay in school is not an easy thing.

I think of one more thing. One of the prosperous crops of my Navajo Indians is what we call the piñon nut. It comes off the pine tree. Every first frost of October, all the kids quit school and go out and pick piñon nuts. Those are the little things that happen out of adherence to their family ways of life and their culture, their religion. We are not going to solve this thing, as much as we would like to. If the move is successful to put this under one bureau, I shall help in every way that I can, because I should like to see the education of our Indians improved. I should like to see their chances improved with the white people when they go out to work among them.

I thank the Senator.

Mr. DOMENICI and Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER (Mr. INOUYE). Who yields time?

Mr. RIBICOFF. There is no control

My personal opinion is that the Domenici amendment really does not do anything. It does not really provide any needed clarification. Therefore, it is just a sort of camouflage for the bill itself.

I am very concerned about the bill. I am tempted to talk on the bill because the other Senators were discussing provisions that are in the bill, but I shall not do that. I just want to express my opposition to the Domenici amendment and that I hope it will be voted down.

Mr. DOMENICI. Mr. President, I understand the basic issue as to whether or not Indian education should be transferred to the Department of Education. I hope we will hear a lively debate on the transfer issue this afternoon.

In all deference to my good friends (Mr. BARTLETT and Mr. GOLDWATER), who have indicated that there is Indian opposition to this Domenici-Melcher amendment which clarifies the treaty language, I do believe that the opposition is based upon opposition to the transfer in toto, not to the clarifying amendments. I cannot imagine that they would really be opposed to a clarification which stipulates that the Indian Self-Determination and Education Assistance Act still applies after the transfer.

I cannot imagine that Indian preference and its clarification being attendant on transfer are opposed by these various groups.

I do not believe that a National Council on Indian Education advising the Assistant Secretary would be opposed. I believe the opposition stems from the fact that many of those groups—and I acknowledge that—do not want the Bureau of Indian Affairs to get out of the education business at all. It is for that reason that they oppose the amendment.

I yield my time and move the adoption of the Domenici amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Richard Jerve of the staff of the Committee on Human Resources; Mark Ash and Allen Bloom of Senator METZENBAUM's staff; Tom Polgar of Senator MORGAN's staff; and Karyn Mandan of Senator CRANSTON's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I commend the Senator from New Mexico for his clarifying amendment. I think it is a very useful and good thing to have.

I also want to say how much our Subcommittee on Education has appreciated the opportunity of working with the Committee on Governmental Affairs toward this excellent bill that has emerged. I am delighted at the opportunity for cooperation that has been given to our staff and to us.

The bill that is before us, I think, is a truly excellent one, one in support of programs as social security and medicare rise annually.

As a result, the portions of the HEW budget which are subject to the annual appropriation process continue to feel the squeeze of static funding. Education, as the largest controllable program area in HEW, is always the area that budget-cutters look to first as they seek to keep funding at a reasonable level.

Cabinet-level representation for education would allow education to be judged on its own merits, rather than in competition with other domestic programs with scarce dollars. It would also provide for direct access to the President of the voice of education.

This voice deserves to be heard, for education is vital to our Nation's continued growth and development. More than 65 million people are involved in education enterprises, nearly one in every three of our citizens. Surely an "industry" of this size and scope deserves Cabinet rank.

Finally, I note President Carter's deep commitment to the creation of a Department of Education, and I applaud him for that commitment.

In conclusion, I wish to say what an excellent job I believe the Senator from Connecticut, as chairman of the Committee on Governmental Affairs, has done, and what a fine bill it is. Think how many years it has taken to emerge, and, thanks to the Senator from Connecticut, it is finally adopted and voted on.

BURDICK, Mr. JACKSON, Mr. GRAVEL, and Mr. MATHIAS proposes amendment numbered 3568.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, strike out line 1.

On page 48, line 2, strike out "(C)" and insert "(B)".

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I").

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, strike out lines 3 through 7.

On page 51, beginning with the word "programs" on line 3, strike out through the word "individuals" on line 6 and insert "certain programs relating to the education of Indians, Alaskan Natives, and Aleuts".

On page 56, line 8, strike out "section 304" and insert "section 303".

On page 56, beginning with line 15, strike out through line 13 on page 58.

On page 58, line 16, strike out "Sec. 212." and insert "Sec. 211.".

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which I am glad to rise. It creates a Cabinet-level Department of Education. I have long supported such a department and I am proud to be an original cosponsor of this legislation.

Why? The education division alone has a budget of $9.1 billion, more than the budget of four Cabinet agencies. Yet this division, made up of the offices of the Assistant Secretary of Education, the Office of Education, and the National Institute of Education, would be only a part of the Department of Education as envisioned in S. 991. S. 991 would also include in the new Department the Education Directorate of the National Science Foundation, along with the school lunch programs, the overseas dependent schools, Indian education, now as clarified by the excellent Domenici amendment, and college housing programs.

While I recognize that inclusion of these programs may be controversial to some of my colleagues, I believe that the Senate should support as broadly-based an Education Department as possible.

Current education efforts are fragmented among a lareg number of agencies, with no mechanism to coordinate their provisions or to measure their impact on States, school districts, and institutions. A single department would provide the structure for such coordination.

In addition, it is my belief that funds for education are kept artifically low by the very structure of the Department of Health, Education, and Welfare. More than 90 percent of HEW's budget is considered uncontrollable, as costs of such

Mr. RIBICOFF. I thank the distinguished Senator from Rhode Island because, under his leadership, we have made great strides in education. The Senator from Rhode Island is concerned and knowledgeable in this entire field. His support for this Department has great significance and meaning, because his responsibility in the authorization process in all education programs gives him the special insights into why we need this Department.

Accompanying him in this support is the distinguished Senator from Washington (Mr. Magnuson), chairman of the Appropriations Committee. Hardly a day goes by that Senator Magnuson does not ask me, "When is this bill coming up?" Because of his responsibility for education appropriations, there is no one in this body who is more concerned with the necessity of having a separate Department of Education to make sure that the job is being done and the full amount of taxpayers' value is being received from the sums we are spending in the field of education.

AMENDMENT NO. 3588

(Purpose: To eliminate the transfer of Indian education programs from the Secretary of the Interior to the Secretary, and for other purposes)

Mr. STEVENS. Mr. President, I call up my amendment No. 3588.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), for himself, Mr. Young, Mr. Goldwater, Mr. Chiles, Mr. Anderson, Mr. Bartlett, Mr. Church, Mrs. Humphrey, Mr. Hansen, Mr.

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "Sec. 213." and insert "Sec. 212.".

On page 60, line 4, strike out "Sec. 214." and insert "Sec. 213.".

On page 60, line 12, strike out "Sec. 215." and insert "Sec. 214.".

On page 66, line 2, strike out "Sec. 216." and insert "Sec. 215.".

On page 75, strike out lines 7 through 24.

On page 76, line 3, strike out "Sec. 304." and insert "Sec. 303."

On page 77, line 14, strike out "Sec. 305." and insert "Sec. 304.".

On page 78, line 12, strike out "Sec. 306." and insert "Sec. 305.".

On page 78, line 21, strike out "Sec. 307." and insert "Sec. 306.".

On page 79, line 3, strike out "Sec. 308." and insert "Sec. 307.".

On page 79, line 13, strike out "Sec. 309." and insert "Sec. 308.".

On page 82, beginning with line 23, strike out through line 12 on page 83 and insert the following:

"(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.".

On page 86, between lines 9 and 10, insert the following:

"(J) Office of Indian Education;".

On page 86, line 10, strike out "(J)" and insert "(K)".

On page 86, line 11, strike out "(K)" and insert "(L)".

On page 87, strike out lines 9 and 10.

On page 87, line 11, strike out "(4)" and insert "(3)".

On page 87, line 14, strike out "(5)" and insert "(4)".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 107, beginning with line 20, strike out through line 15 on page 112.

On page 112, line 18, strike out "Sec. 511." and insert "Sec. 510.".

On page 113, line 2, strike out "Sec. 512." and insert "Sec. 511.".

On page 113, line 19, strike out "Sec. 513." and insert "Sec. 512.".

On page 40, in the table of contents, strike out item Sec. 211. and redesignate items Sec. 212. through Sec. 216. as items Sec. 211. through Sec. 215., respectively.

On page 40, in the table of contents, strike out item Sec. 303. and redesignate items Sec. 304. through Sec. 309. as items Sec. 303. through Sec. 308., respectively.

On page 41, in the table of contents, strike out item Sec. 510. and redesignate items Sec. 511. through Sec. 513. as items Sec. 510. through Sec. 512., respectively.

Mr. STEVENS. Mr. President, I ask unanimous consent that these amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is with deep regret that I rise to oppose the chairman of our committee with regard to one of the provisions of this bill. Although I am not a cosponsor of this bill, I do believe in the establishment of a separate Department of Education.

I do believe, however, because I was called on as a member of the Governmental Affairs Committee to chair the hearing when the Indian people from throughout the country came in to object to this particular provision that my amendment would delete, or the total

As has been stated, and the Senator from Oklahoma put the letter from the National Congress of American Indians in the RECORD, they do not feel the Domenici amendment protects those rights and they oppose the bill's provisions even as amended by the Domenici amendment.

I spent a substantial portion of my career in the Department of the Interior and was Chief Counsel of the Department of the Interior.

I know the defects of the BIA operation as it has applied to the Indian trust responsibility despite the good intentions of the BIA.

The Indians themselves have been very forceful in their criticism of the BIA operations. But to be categorical and to be concise and candid about criticism does not mean they seek to do away with the entity that now is showing responsiveness to their needs.

The Bureau of Indian Affairs has had the historic responsibility of fulfilling treaty and statutory obligations to the tribes for over 100 years. This is what the Indians refer to as trust ressponsibility. With it go the assurances that include tribal involvement in te development of Indian policy, standards for recognition, and eligibility of members of the federally recognized tribes for services, assurances of Indian preference in hiring, and processes for implementation of the Indian Self-Determination and Education Assistance Act.

Just 3 years ago we passed the Indian Self-Determination and Education Assistance Act, which was a

functions, the BIA programs, away from BIA and put them in the new Department of Education, a department that has no track record, a department that deals with different committees in the Congress, both authorization committees and appropriations committees. It deals with people that had nothing to do with Indian affairs and will have nothing else to do with it except as it might involve the Department of Education.

If self-determination means anything, it means the Indian people ought to be listened to in terms of how Congress reacts to their demands.

I think that nothing will show that the Federal Government speaks still with forked tongues to the Indian people than to do this, to transfer the Indian function for education to the new Department of Education against their will.

People talk about self-determination around here. The Indians have spoken and we have an obligation to listen to them.

The whole point of self-determination is to allow the decisions affecting Indians to be made in the tribal council rooms and not in Washington, D.C.

Congress jeopardizes that commitment if we allow this transfer against the express wishes of the American Indian people.

Self-determination is just now beginning to take hold firmly in the Indian community. Ten years ago there were two tribally operated contract schools. Now there are 35, and a number awaiting contracts when funds become available.

concept of my amendment would delete, the transferring of the Bureau of Indian Affairs' schools and education programs from the Department of Interior to the new Department of Education, that it is incumbent upon me to speak at some length about it.

The Indian people of our country made a great case when they came before the Governmental Affairs Committee and pleaded with us to delete these provisions that would transfer the BIA schools and education programs from the Department of the Interior to the new Department of Education.

I say this without criticism of other members of the committee because I know we are all busy, but I was there alone, and these people came in from throughout the country, distinguished leaders of their own communities, who represented a great many Indian tribes that have existing relationships with our Federal Government, and they opposed this provision.

There are some from the Indian community who disagree. But the overwhelming majority of the American Indian people oppose the transfer of the BIA schools and education programs as contemplated by this bill.

For example, the National Tribal Chairmen's Association and the National Congress of American Indians, representing over 200 tribes nationwide, testified against this transfer at the hearing I chaired. At that time it was quite clear that the Indians oppose this administratively forced transfer. They oppose it because they feel that the bill does not adequately address trust responsibility or their tribal sovereignty rights.

sistance Act. This act recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities, to make these services more responsive to the needs and desires of those communities. I am convinced that we are breaking the promises we made in that legislation if this forced transfer of BIA schools and education programs is mandated by the Congress.

Mr. President, as one who served for some 6 years on the Interior Appropriations Subcommittee of our Appropriations Committee in the Senate, let me point out one of the major defects in this proposal.

All of the Indian matters that come before the Appropriations Committee are in the Interior Appropriations Subcommittee coverage.

We deal with housing programs, we deal with employment programs, we deal with community programs of water and sewer, we even deal with the health service that normally would be in the HEW budget.

We deal most specifically with the educational needs of the Indian community in relationship to all of the other requirements for Federal funding.

I think the record is clear that we have had an increasing response to the requests of the Indian community as they have come forward under the Indian Self-Determination Act to be more and more involved in the education of their children.

Now it is proposed to take the school

Indians and Alaskan Natives are going to college for the first time in significant numbers. These college-educated Indians hold the promise of a better future for Indian education, better than the new megastructure such as the Department of Education could provide.

A promise was made to the Indian community by this administration that tribal leaders would be consulted before initiating changes that would directly affect them.

This bill is in direct violation of that promise. The least we can do in the Senate is to respect the stated wishes of the native Americans and provide an opportunity for tribal input before restructuring Indian education programs.

The House Committee on Government Operations wisely chose to leave the Bureau of Indian Affairs schools and education programs in the Department of the Interior.

I realize some of my colleagues may object to leaving schools and education programs with the Bureau of Indian Affairs because of the shortcomings of the Bureau's past efforts in education, and those have been commented upon here before. As I said, as the ranking minority member on the Interior Appropriations Subcommittee, I know something of those complaints, too.

Some of my colleagues in the Senate may be familiar with a GAO study completed recently outlining the problems in BIA education. This study has identified areas where improvement is required and has recommended changes. The Bureau deserves the opportunity to try to correct these problems, and the Indian people who are becoming more and more in control of BIA deserve the right, under self-determination, to try to bring the Bureau around as they believe it should be operated under the Indian Self-Determination Act. I do not think we will accomplish anything by sending these same problems over to a new department of education, which will be disorganized and getting its feet wet in many other pressing issues.

But it needs a track record first, to justify the support of the Indian people over the Bureau, when the Bureau now has shown, in recent years, an inclination to make the changes that are requested by the Indian people.

Several years ago, Dr. Rufus Miles, of Princeton, who was formerly Director of Administration at HEW, did a study on a Cabinet level Department of Education which served as the basis of the legislation before us today.

It was Dr. Miles' recommendation that the Indian education programs remain in the Bureau of Indian Affairs because the Office of Education has no trained professionals in school administration and cannot fulfill the goals of the Indian Education and Self-Determination Act. He further stated that moving Indian education to the Department of Education would be an encumbrance on the new Department and hamper its chances for success. If the Indian schools were poorly managed, it would lead to severe criticism of the top level management of the new Department, thus tending to subordinate the Department's leadership activities which set it apart from the grant and loan processing functions of the present Office of Education. It is quite possible that the native American community may, at some future date, choose to have the BIA education programs included in the Department of Education. The point is that the choice should be theirs. Other than producing a nice diagram of Federal education activities, I would challenge any of my colleagues to tell me how the lot of the individual Indian child will be improved if the Indian education programs are consolidated in this new department. They will have the same teachers, the same books, the same building, and the same funding. But they will lose control, because under the BIA, the Indian people now know they have control over their education programs.

The education budget of the Bureau of Indian affairs is the single largest account—and one of the largest within the entire Department of Interior. However, it pales in comparison to the title I programs, impact aid funding, and basic educational opportunity grants of the Office of Education. The BIA education function in connection with the HEW education budget is miniscule, but it is extremely important to the Indian people. In Interior, the problems stand out, and thus the Interior Appropriations Subcommitte is in a position to push for improvements that are necessary. In the Department of Education, attention will be focused on the big money accounts involved in the new Department of Education. I can see that the Indian people do not want that to happen, and they want a way to guarantee that it will not happen. So they have asked many of us personally to take an interest in this bill for the purpose of trying our best to take out of this bill the proposals to transfer the BIA education programs to this new department.

I cannot emphasize enough the importance of the Indian self-determination act during consideration of this new department. The American Indian community is watching us to see if we will live up to that commitment we made, in which the Federal Government—Congress and the Executive—promised Indian control over Indian programs to the maximum extent possible. If we force this transfer, against almost the unanimous objection of the tribes, we will have done irreparable damage to the Federal relationship with the Indian tribes and Alaskan Native people. Congress will have demonstrated to the Indian people that the Federal Government does not truly believe that Indians are capable of knowing what is best for themselves; and in the final analysis, without regard to their views, Congress and the executive branch will have the final say.

I urge that the Senate adopt this amendment, which has been cosponsored by Senator YOUNG, Senator GOLDWATER, Senator CHILES, Senator ANDERSON, Senator BARTLETT, Senator CHURCH, Senator HUMPHREY, Senator HANSEN, and planning responsibilities to those of the day-to-day administration of a school system.

Let me emphasize that. Nowhere else in the Federal Government is there day-to-day administration of a school system as there is in the Indian area.

If the Department were successful in significantly upgrading the level of Indian education programs, it could lead to pressures for the Federal Government to become more directly involved in the day-to-day operations of schools throughout the Nation.

So, in addition to being a poor alternative from the point of view of the Indians, so far as the original proponent of this Cabinet level Department of Education is concerned, it was a no-win proposition for the new Department to be saddled with this additional responsibility.

All of the other programs which are being put into the new department are now part of the Department of Health, Education, and Welfare. The school nutrition programs and the Head Start programs will remain in their current status. Some might say that these programs are not truly educational in nature and that Indian education is so we need to consolidate all of the Federal efforts in this area.

The significant difference between BIA education programs and the other Federal educational activities is that the Bureau, in many instances, acts as a local educational agency. The Bureau is responsible for hiring teachers, determining curriculum, building maintenance, building construction, running boarding schools, and a host of other ac-

and the Indian education program will be the forgotten stepchild. Grants-manship is what gains attention in HEW. The individual Indian child and his family count at the Bureau.

The Office of Indian Education, now part of the Department of Education, has not, in my opinion, and that of the Indians, proved to be a success. They fund a program for 1 year only—with no guarantees for a continuation grant. Just as the people have begun working on the part B and C program funded in 1 fiscal year, they have discovered that they will not be refunded for the next year. Education in the Indian community cannot work that way. A long-term commitment must be made. We cannot allow the education of Indian children to be affected by every new educational fad which sweeps the Nation. With the Bureau programs offering the only opportunity for direct Federal intervention in education from kindergarten through college, I can foresee the native American children being used as guinea pigs for every new scheme developed by the National Institute of Education, the Office of Bilingual Education and the Office of Civil Rights. The way this bill now stands, we have no guarantee that this will not happen.

This would be the only operation portion of the new Department of Education. In the day to day operation of schools, in the maintenance of schools, this is the only involvement in the curriculum directly from a Federal level.

Within this new department, if this bill is passed as it stands, is the perfect test tube area to try out all the new dreams and schemes of those people who are in-

Senator BURDICK, Senator JACKSON, Senator MATHIAS, and my colleague from Alaska. This would leave the Indian education programs where they are, in the Department of the Interior, where the Indians feel they have the most recognition and will receive the best treatment in the future.

Mr. President, I take great pleasure in announcing that the chairman of the Committee on Energy and Natural Resources, my good friend from Washington, Senator JACKSON, supports this amendment.

I call attention to the fact that after this year is passed, the jurisdiction over Indian affairs will revert to his committee.

I note also that Senator BARTLETT, who has been the ranking Republican on the Select Committee on Indian Affairs, opposes the provisions of the bill and supports my amendment.

We have contacted over 200 tribes or Indian organizations that have asked to be listed as opposing the transfer of these function to the new Department of Education.

I point out, significantly, that leading that list is the Alaska Federation of Natives, which represents 201 Indian, Eskimo, and Aleut villages. About 75,000 Native American people in the AFN oppose the provisions of this bill, as I have stated.

Mr. President, I ask unanimous consent that the position of these organizations which represent these federally recognized tribes be printed in the RECORD.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

POSITION OF FEDERALLY-RECOGNIZED TRIBES OR ORGANIZATIONS REPRESENTING FEDERALLY-RECOGNIZED TRIBES ON TRANSFER OF BIA EDUCATION TO DEPARTMENT OF EDUCATION

State, tribe or organization opposed to transfer:

Alaska: Alaska Federation of Natives, representing 201 Indian, Eskimo, and Aleut Villages.

Arizona: Ak Chin Community Council Arizona Inter-Tribal Council, Cocopah Tribal Council, Colorado River Tribal Council, Fort McDowell Mohave-Apache Community Council.

Havasupai Tribal Council, Hopi Tribal Council, Hualapai Tribal Council, Kaibab Tribal Council, Navajo Tribal Council, Papago Council, Salt River Pima-Maricopa Community Council, San Carlos Council, White Mountain Apache Tribal Council, Yavapai Apache Community Council (Camp Verde), Yavapai-Prescott Board of Directors, Yavapai Tonto Apache (Payson).

California: Barona General Council, Big Pine General Council, Bishop Tribal Council, Cedarville Rancheria, Covelo Community Council (Round Valley), Dry Creek Tribal Council, Fort Bidwell Community Council, Fort Independence General Council, Hoopa Valley Business Council, La Jolla General Council, Laytonville General Council, Lone Pine Tribal Council, Manchester Community Council, Morongo General Council, Pala General Council, Pauma General Council, Pechanga Tribal Council, Rincon Business Committee, San Manuel General Council, San Pasqual General Council, Santa Rosa General Council Rancheria, Santa Rosa General Council Reservation, Santa Ynez General Council, Soboba General Council, Tuolumne Community Council, Twenty-nine Palms Council, Navajo, Picuris Pueblo Council, Tesuque Pueblo Council.

New York: Cayuga Nation, Oneida Nation of New York, St. Regis Mohawk Council of Chiefs (Akwesasne).

North Dakota: Devils Lake Sioux Tribal Council (Ft. Totten), Fort Berthold Tribal Business Council, Standing Rock Tribal Council, Turtle Mountain Tribal Council, United Tribes Education Technical Center.

Oklahoma: Absentee-Shawnee Business Committee, Caddo Executive Committee, Cheyenne-Arapaho Business Committee, Citizen Potawatomi Business Committee, Comanche Business Committee, Creek Nation of Oklahoma, Delaware Executive Board, Eastern Shawnee Board, Eastern Shawnee Tribal Council, Fort Sill Apache Business Committee, Iowa Tribal Council, Kaw Business Council, Kickapoo Council, Koawa Business Committee, Miami Business Committee, Otoe-Missouri Business Committee, Ottawa, Pawnee Business Council, Peoria, Ponca Business Committee, Quapaw Tribal Business Committee, Sac and Fox Business Committee, Seminole Nation (Oklahoma) [illegible]-Cayuga Tribal Business Committee, Tonkawa Business Committee, Wic[illegible] Executive Committee, Wyandotte Council.

Oregon: Umatilla Board of Trustees, Warm Springs Tribal Council.

South Dakota: Lower Brule Sioux Tribal Council, Oglala Sioux Tribal Council (Pine Ridge), Rosebud Sioux Tribal Council, Sisseton-Wahpeton Sioux Tribal Council, Standing Rock Sioux Tribal Council, Yankton Sioux Tribal Business and Claims Committee.

Utah: Uintah and Ouray Tribal Business Committee.

Washington: Chehalis Business Council, Colville Business Council, Kalispel Business Committee, Lower Elwha Community Council, Lummi Business Council, Makah Tribal Council, Nisqually Community Council, Puy-

tirely possible that they would accept and support a transfer of these functions to the new Department of Education after it has developed a track record. But they should not be compelled to accept what other people think is best for them.

● Mr. JACKSON. Mr. President, I have cosponsored Senator STEVENS' amendment deleting the transfer of the Indian education programs of the Bureau of Indian Affairs to the Department of Education. A good many tribes in my State of Washington have opposed the transfer, including the Affiliated Tribes of Northwest Indians. This transfer would be a setback to Indian self-determination and to the ability of Indian people to control their destiny.

Transfer of these programs to a new, larger, and more diffused bureaucracy would reduce the effectiveness of the Indian education programs by making it ever more difficult for Indian tribes to maintain personal and effective relationships with the Government personnel responsible for Indian programs.

The concept of self-determination is less than 8 years old. That concept, along with Indian preference, is just beginning to make its impact on the BIA, its administrators, and the Indian tribes. The Federal Government does have a special responsibility to provide adequate education for Indian people. The last thing we want to happen is for the children to suffer. Tribal control of education and other contract services is crucial to the continuing improvement of the socioeconomic condition of the tribes.

General Council, Viejas Tribal Council (Baron Long), Resighnini Rancheria, Inter-Tribal Council of California, Big Laguna Rancheria, Bridgeport Indian Colony, Cold Springs Rancheria, Hopland Rancheria, Stewart's Point Rancheria, Cycuan Reservation, Table Mt. Reservation.

Colorado: Southern Ute Tribal Council, Ute Mountain Tribal Council.

Florida: Miccosukee Business Committee, Seminole Tribal Council.

Idaho: Coeur d'Alene Tribal Council, Fort Hall Business Council (Shoshone-Bannock), Idaho Inter-Tribal Conference, Kootenai Tribal Council, Nez Perce Tribal Executive Committee.

Iowa: Sac and Fox Tribal Council.

Kansas: Iowa Executive Committee, Kickapoo Tribal Council, Prairie Potawatomi Business Committee.

Michigan: Bay Mills Executive Council, Hannahville Community Council, Inter-Tribal Council of Michigan, Keweenaw Bay Tribal Council (L Anse), Michigan Inter-Tribal Education Committee, Saginaw-Chippewa Tribal Council (Isabella).

Minnesota: Boise Forte Reservation Business Committee, Fond du Lac Reservation Business Committee, Grand Portage Reservation Business Committee, Leech Lake Reservation Business Committee, Mille Lacs Reservation Business Committee, Minnesota Chippewa Tribal Executive Committee, Red Lake Tribal Council, White Earth Reservation Business Committee.

Montana: Blackfeet Tribal Business Council, Chippewa Cree Business Committee (Rocky Boy's), Crow Tribal Council, Flathead Tribal Council, Fort Belknap Community Council.

Nevada: Duckwater Shoshone Tribal Council, Fallon Paiute Shoshone Business Council, Pyramid Lake Paiute Tribal Council, Shoshone Paiute Business Council (Duck Valley).

New Mexico: Mescalero Apache Tribal

allup Tribal Council, Spokane Business Council, Squaxin Island Tribal Council, Tulalip Board of Directors, Upper Skagit Tribal Council, Yakima Tribal Council.

Wisconsin: Great Lakes Inter-Tribal Council, Inc., Lac Courte Oreille Governing Board, Lac du Flambeau Tribal Council, Menominee Restoration Committee, Oneida Executive Committee, Red Cliff Tribal Council, Sokaogon Chippewa Tribal Council (Mole Lake), Stockbridge-Munsee Tribal Council, Wisconsin Winnebago Business Committee.

Louisiana: Chitimacha Tribal Council, Coushatta Tribal Council.

NATIONAL INDIAN ORGANIZATIONS WHICH OPPOSE TRANSFER OF BIA EDUCATION TO DEPARTMENT OF EDUCATION

National Congress of American Indians.

National Tribal Chairmen's Association.

American Indian Scholarships, Inc.

National Indian Education Association.

American Indian Higher Education Consortium.

Coalition of Indian Controlled School Boards.

Association on American Indian Affairs.

Mr. STEVENS. Mr. President, it is my hope that those people who represent these Indian tribes and organizations and the States from which they come will take heed of their position.

Again, I emphasize that the Indian people have informed me that they do support the new Department of Education but they do not support the transfer of these functions to it.

They also have indicated to me that, if they are properly consulted and if the terms under which the transfer will take place in the future were explained to their organizations and discussed with them and their tribal councils, it is en-

Over my term in Congress, I have consistently opposed bills which would decrease the control all people, and particularly Indian people, have over their own lives and the education of their children. I, therefore, oppose the transfer and support Senator STEVENS' amendment to delete the transfer from S. 991.●

Mr. STEVENS. Mr. President, I ask unanimous consent that Jill Porter, of Senator MATHIAS' staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. MATHIAS. Mr. President, while I am a cosponsor of S. 991 to create a Cabinet-level Department of Education, I am opposed to those provisions of the bill that would transfer American Indian Schools and education programs from the Bureau of Indian Affairs, Department of the Interior, to the new Department.

The overwhelming majority of American Indian tribes, and the national organizations that represent the tribes' interests, such as the National Congress of American Indians and the National Tribal Chairmen's Association, are against what they perceive to be a forced transfer of their educational programs against their best interests and the best interests of their children. American Indian tribes across the country have contacted the Congress to oppose the transfer.

I urge my colleagues to listen to the virtually unanimous voice of the Indian people in this matter and join the tribes in their efforts to have the transfer deleted.

Felix Cohen, the eminent jurist and former solicitor for Indian Affairs of the Department of the Interior, once proposed a matter-of-fact definition of self-government. Self-government, he said, means that form of government in which decisions are made by the people most directly affected. American Indians have left no doubt that they believe a forced transfer would be harmful to their efforts to make a better life for themselves and their children.

It is now more than 30 years since Felix Cohen proposed his simple definition of self-government, but less than 4 years since Congress said essentially the same thing when we passed the Indian Self-Determination and Education Assistance Act (Public Law 93-638), by overwhelming margins. One of the findings of Congress in that act, whose purpose was to mandate the right of American Indian tribes to operate their own educational as well as other programs, was that:

> The prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities . . . and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities.

The hopes aroused by the Indian Self-Determination Act are, the tribes believe, just beginning to be fulfilled. Ten years ago there were two tribally operated contract schools, today there are 35 and a Department of Education which S. 991 would establish.

Self-determination has been the paramount desire of Native Americans throughout our history, but it is only in recent years that Congress has seriously responded to this most basic of all human rights. The efforts of Robert F. Kennedy in my own State of Idaho focused congressional attention on the necessity of Indians' being responsible for their own affairs. I joined those efforts, and they led to the enactment of the Indian Self-Determination and Education Assistance Act, Public Law 93-638, as recently as 1975.

S. 991 would establish a Cabinet-level Department of Education, and I support that concept. Nevertheless, I must strongly oppose the provisions in S. 991 which would dismantle Public Law 93-638, and would, in my judgment, represent yet another abrogation of a promise by the United States to Native Americans.

Mr. President, the importance of this issue is underscored by the fact that Idaho Indian Tribes are unanimous—together with the vast majority of Indians throughout the country—in support of the Stevens Amendment. I submit for the Record correspondence I have had from the All Idaho Indian Conference and on behalf of every Idaho Indian Tribe.

Mr. President, I have been impressed repeatedly over the years with the fact that Indians alone hold the ability to solve Indian problems, and they must

reau of Indian Affairs to a new executive department, and

Whereas, this transfer would jeopardize specific trust responsibilities obliged on the Government of the United States of America under treaties executed and in force between the United States and the sovereign Indian Tribes and their governments, and

Whereas, the proposed new department will not be charged with specific responsibilities focused on the special and diverse Indian Education concerns, and

Whereas, Bill S-991 will transfer Indian Education programs from the Bureau of Indian Affairs, an agency organized to recognize Tribal sovereignties and to implement trust responsibilities of the United States Government to Indian Tribes, and

Whereas, Bill S-991 will create administrative problems for Tribal Governments who rely on the Bureau of Indian Affairs for the execution of Indian Education Programs, and

Whereas, Bill S-991 will, in effect, abrogate the trust responsibilities of the United States Government to the various Indian Tribes with regards to Indian Education and force Tribal Governments to compete for educational funds with numerically larger groups of people, and

Whereas, there are no provisions in Bill S-991 to provide a policy of Indian Preference in hiring within the proposed Department of Education and,

Whereas, Bill S-991 is contrary to the statuatory objective of Federal Indian Policy, "an orderly transition from Federal domination of programs for and services to Indians, to an effective and meaningful participation by the Indian people in the planning, conduct, and administration of these programs."

Now, therefore be it resolved; the Idaho All Indian Conference, i.e. the five Indian Tribes within the State of Idaho, is in complete opposition to placing Interior BIA schools and number more awaiting contracts when funds are available. Ten years ago 2,660 Indian students attended college with the aid of BIA scholarships; today, 20,000 Indians do so.

Perhaps most important, the tribes believe that to transfer their programs against their wishes would violate the principle and spirit of local self-government. Indeed, to force the Indian people into the new Department against their will would be almost to guarantee from the outset the development of an inimical relationship in which educational progress would be impossible.

One of the purposes of S. 991 is to "encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education." The decision of Indian parents, students, and communities is clear at this point, and I join with them in the hope that the Senate will respect their wishes and support them in their efforts to provide the best education possible for their children through the BIA.

There are no federally recognized Indian tribes in my State of Maryland. However, a danger to the well-being of American Indian tribes endangers all other minorities in our land. "And who of us," Felix Cohen asked, "is not a member of some minority?" ●

INDIAN SELF-DETERMINATION IN EDUCATION

● Mr. CHURCH. Mr. President, I rise today in strong support of the Stevens amendment to S. 991, which would maintain Indian self-determination in their education programs, rather than eliminating it by incorporating them into the have the responsibility to meet them. These problems include education of Indian children. I urge the Senate not to renege on the promises we have made, and to adopt the Stevens Amendment.

The material follows:

IDAHO INTER-TRIBAL POLICY BOARD, INC.,
Boise, Idaho, April 18, 1978.

FRANK CHURCH,
Russell Senate Office Building,
Washington, D.C.

HONORABLE SIR: Representatives of the Idaho Indian Tribal Governments met in Boise, Idaho on April 12 through 14, 1978, to discuss issues of Importance to Native Americans. More than 150 Native Americans joined together to make their feelings clear to the public. Of special concern to the group attending the "All Idaho Indian Conference" is the disposition of S.B. 991: The Department of Education Act. The Conference unanimously agreed to condemn the act because of its counter-productive effects for Indian People nation wide. As chairman of the Conference, of the Idaho Inter-Tribal Policy Board, and of my Tribe: The Nez Perce, I ask that you consider carefully your position on S.B. 991 in light of the Resolution attached.

Respectfully yours,
WILFRED A. SCOTT,
Chairman,
All Idaho Indian Conference.

RESOLUTION

Idaho All Indian Conference, a conference of the peoples of the five Indian Tribes in the States of Idaho, Shoshone-Bannock, Couer d' alene, Kootenai, Shoshone Paiute, and Nez Perce, do hereby resolve;

Whereas, Bill S-991, the Department of Education Bill introduced by the Honorable Senator Ribicoff, is a bill designed to transfer the Indian Education Programs of the Bureau of Indian Affairs to the Department of Education, and

Whereas, the Conference expresses its opposition to any Indian related Education programs in Bill S-991 and efforts to transfer Indian Education Programs from the Bureau of Indian Affairs to the proposed Department of Education, and

Be it further resolved, the Idaho All Indian Conference urges the President and Congress of the United States of America to solicite the input from the various Tribal Government as to the future organization and direction of Indian Education Policy Development and Program Management.

The foregoing resolution has been adopted at the spring Conference of the Idaho Indian Tribes, April 12, 13, and 14, 1978 at the Rodeway Inn, Boise, Idaho.

PORT HALL, *Indiana,*
July 12, 1978.

HON. FRANK CHURCH,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Shoshone-Bannock tribes of Indians is in support of Senator TED STEVENS' amendment to Senate Bill 991 (Department of Education bill). The amendment excludes the Bureau of Indian Affairs from the creation of the Department of Education. The tribes feel a split of the Bureau of Indian Affairs will erode the trust responsibilities and the United States' commitment through her treaties. We ask that the amendment be re-introduced on the floor.

GILBERT C. TETON,
Chairman,
Shoshone-Bannock Tribes of Indians.

COEUR D'ALENE TRIBAL COUNCIL,
Plummer, Idaho, May 4, 1978.

FRANK CHURCH,
Russell Senate Office Building,
Washington, D.C.

DEAR MR. CHURCH: The Coeur d' Alene Tribe wishes to go on record as opposing S-

991 (The Department of Education Bill) introduced by Senator Ribicoff.

Specifically, we are concerned about the United States Government's trust responsibility to the Indian people and Indian Education. Under the proposed Bill, this new Department of Education will not be charged with specific responsibility to the special trust relationship of the Federal Government to Indian people and the specific concerns of Indian Education.

In response to Senator Ribicoff's letter to Charles E. Trimble (NCAI), we do not favor the transfer of any portion of the Bureau's Indian Education programs to a new and separate Department of Education. We feel that under the present system, we do control the direction of Indian Education and Indian Education Programs, which is Indian self-determination and in line with P.L. 93-638.

We as a small Tribe would not be able to compete numerically with the larger Tribes for Education funds. We also oppose the fact that there is no provision for Indian Preference in employment in this new Department.

Perhaps there is merit in the development of a separate Department of Education, however, there are many questions unanswered, plus the time factor did not allow for the thorough consideration of the proposal.

Sincerely,

Bernard J. LaSarte,
Chairman, Coeur d' Alene Tribe.

Whereas, S-991 (The Department of Education Bill) has been introduced by Senator Abraham Ribicoff, and

Whereas, this Bill is to establish a new and separate Department of Education and proposes to transfer the Bureau of Indian Affairs Education Programs to this new Department, and

Whereas, S-991 does not speak directly to the special trust responsibility of the United States Government to the Indian people and

destroy by conglomerating Indian education funds and allocating these funds on competitive basis.

Your committee should not ignore the special educational needs of the many full-bloods that the Federal Government is especially responsible to and who continue to strive for their betterment in their education and employment goals.

1. (A). No—To include Bureau of Indian Affairs schools to a new Department of Education would greatly jeopardize the trust responsibility of the Federal Government and endanger the sovereignty of all Indian Tribes. Basically Bureau of Indian Affairs schools are an essential need for the education of many Indian students who are victims of neglect either through broken homes or death of their parents. Many of these students would not be able to function effectively in a public school situation and could possibly be destined toward correctional institutions.

(B). Yes—The selection of an all Indian School Board would be necessary, however, this board should be carefully screened before selections are made. This board should have dual concerns of upgrading the curriculum to equal public school standards and also to develop curriculum to stress the identity of the Indian students.

(C). Yes—Tribes will need representation at this level for recognition and services for their educational needs to all Reservation Indians. However, we are still opposed to the transfer of the Bureau of Indian Affairs functions to a new Department of Education.

2. No—The possibilities of this recommendation would endanger Bureau of Indian Affairs administered services of the Johnson O'Malley and Continuing Education Programs to reservation Indian Tribes. There are no assurances that the Johnson O'Malley and the Continuing Education Program

people and native Alaskans of any Senator in this body.

I found his role on the Appropriations Subcommittee one of genuine concern about the issues of Indian education and Indian health. I have sought Senator Stevens' counsel on the many Indian problems I have encountered. However, on this particular issue, it appears to me that a decision to leave Indian education within the BIA assumes that the BIA will improve upon its record in the area of Indian education. I do not agree with that assumption.

The views of the Indian people on this issue have been listened to from the start. I have reviewed the entire record and I understand the concern that the Indian people have with the transfer. We are all traditional people, and they are among the most traditional people. Their concerns have been prompted by certain people within the bureaucracy.

However, with the adoption of the Domenici-Melcher amendment, they need not fear. What could their fears be?

The Bureau of Indian Affairs has not done a good job. I need not repeat what the Senator from Arizona, Senator Goldwater, said about Indian education and how poorly we have done. I need not repeat what the Chairman of the Select Committee on Indian Affairs, Senator Abourezk, said about the matter.

My amendment protects the Indian trust relationship, the Indian sovereignty relationship, and Indian preference. It also creates an Assistant Secretary to the Education of Indian people, and

Whereas, the future of Indian Education Programs will be jeopardized if removed from the Bureau of Indian Affairs.

Therefore, be it resolved that the Bureau of Indian Affairs Education Programs not be included within S-991.

CERTIFICATION

The foregoing resolution was adopted at a meeting of the Coeur d' Alene Tribal Council, held at the Coeur d' Alene Sub-Agency, near Plummer, Idaho on May 3, 1978 with the required quorum present by a vote of 5 for and 0 against.

BERNARD J. LASARTE,
Chairman, Coeur d' Alene Tribal Council.
EVANGELINE ABRAHAM,
Secretary, Coeur d' Alene Tribal Council.

KOOTENAI TRIBE OF IDAHO,
Bonners Ferry, Idaho, April 25, 1978.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Committee on Governmental Affairs, Washington, D.C.

DEAR SENATOR RIBICOFF: Submitted are comments from the Kootenai Tribe of Idaho as you requested in your letter of April 4, 1978. Consideration from the Tribe is focused on the Indian students at the reservation level and how a new Department of Education could be a deterrent toward successfully educating our Indian students in the future. The Tribal concern is whether the new Department of Education would recognize the unique relationship the American Indians possess with the Federal Government or would the American Indians be treated as just another minority. There are no assurances in the recommendations that Indian Tribes will be recognized for their sovereign rights through their respective treaties with the Federal Government. It is dangerously possible that the lack of understanding with the upper echelon in any new department of education could hinder or funds would continue to direct services to Indian Tribes.

3. To allow high priority to Reservation Tribes for funding, as major educational problems and needs exist within the public schools, Tribal schools and Bureau of Indian Affairs schools. More emphasis to encourage Tribes to develop a comprehensive long range plan to develop their goals and objectives accordingly without limitations to financial assistance from the Federal Government, and to enable Reservation Indian Tribes to achieve toward their objectives and goals.

The administration responsibilities should be focused at the energy level with the Bureau of Indian Affairs by the fact they are most familiar, as the Tribes are, with the existing reservation problems and needs for the improvement of Indian Education for our Indian students.

Sincerely,

DIXIE A. COOPER,
Chairperson, Kootenai Tribe of Idaho.●

Mr. DOMENICI. Mr. President, will Senaor Percy yield me 5 minutes?

The PRESIDING OFFICER. There is no restriction on time.

Mr. PERCY. There is no time agreement on the bill. The Senator may take whatever time he chooses.

Mr. DOMENICI. Mr. President, let me say at the outset that I support the transfer of the Bureau of Indian Affairs' role in Indian education to the new Department of Education. It is very difficult for me to stand and oppose the distinguished Senator from Alaska on a matter that concerns the Indian people. In my 5½, going on 6 years in the Senate I have found Senator STEVENS one of the strongest advocates of the Indian for Indian Education. Furthermore the amendment creates by statute a council to advise the Assistant Secretary on Indian Education. It appears to me that these are adequate safeguards and that our Indian people need not fear.

There is a split among Indians in my State on this issue. However, for the most part, the Pueblos in New Mexico support what I am trying to do. The all Indian Pueblo Council, which represents most of the Pueblo Indians in my State, is anxious to try the transfer, as long as my clarifying language is included in the bill.

Obviously, there is nothing to lose. I do not understand what my opponents believe we could lose. We protected the trust relationship. There is nothing sacred about Indian education programs being under the Bureau of Indian Affairs. That was also created by Congress, just as we are creating the Department of Education here today.

I recall talking with my good friend, Senator RIBICOFF, about Indian health. He informed me that he was the Secretary of HEW when Indian health was still in the Bureau of Indian Affairs, and I am certain the same arguments were made: "It has been run by the Bureau. The Bureau knows how to do it."

All the fears that are injected into this issue were injected then. Yet we moved Indian health out of the Bureau into the professional health delivery system of the U.S. Government, the Public Health Service.

I can attest, after 5½ years in the Senate, that Indian health is substantially better today than it was 5½ years ago.

I believe those who were here before me when Indian health programs were part of the Bureau would have to attest that it is many times better today than it was before. It is moving in the direction of providing some real health delivery opportunities to Indian people which never would have been there had Indian health matters not been moved to the Public Health Service.

I think the same thing is going to happen in Indian education. In this new department there will be a better chance for the Indian people of our country to preserve their traditions, their culture, and to receive the quality education they so richly deserve. I sincerely believe that our Indian people will be substantially better off shortly after the adoption and creation of this department. There will be a better opportunity for their voices to be heard. Unfortunately they go unheard today.

I am convinced that the new council which will be created by my amendment will have some real input to the Assistant Secretary for Education of the Indian People.

I greatly respect and admire the distinguished Senator from Alaska, my good friend from Oklahoma, Senator Bartlett, and the other Senators who share their views. However, I am firmly convinced of two things. There is no serious risk involved in this transfer. Second, there is indeed a chance that our Indian people will get a much better opportunity to be educated properly. The American people will get more for the elementary and secondary level exceed 50 percent;

Dropout rates for Indian students in postsecondary institutions exceed 75 percent.

The condition of Indian education is extremely poor. Indian education will simply not improve if it is left in the BIA. Should the Stevens amendment be adopted, we could expect another 150 years of stagnation by one of the most inefficient agencies of the Federal Government—the BIA.

Report after report, study after study has been issued over the years condemning the BIA's performance and suggesting corrective action.

Nothing has worked.

Even the moving and powerfully written Senate report, "Indian Education: A National Tragedy, A National Challenge," issued in 1969 under the direction of Senator Kennedy, has been largely ignored by the BIA. Few of its recommendations have been implemented. The poor condition of Indian education described in that report nearly a decade ago has not changed.

Indian education today is still a national tragedy.

Yet how can we expect an agency which is predominantly concerned with natural resources and land management to have the expertise and ability to improve Indian education?

The fact is nearly every Cabinet department has special programs for Indians in its field of expertise. For example, the Labor Department has a across the world, their per-pupil costs did not exceed $2,500 in 1977.

The sad reality is, in spite of these large sums of money, Indian students are receiving an education of very low quality. The American taxpayer, and the Indian people, are not getting the most out of their dollars.

The Federal Government has an obligation to provide Indian people an education of equal or superior quality to that afforded the rest of the country.

But today there is no comprehensive strategy for Indian education. The BIA has refused to develop one.

Indian education programs are fragmented between two different agencies—the Office of Education and the BIA. The $500 million we spend each year for Indian education is split nearly evenly between these two agencies. They rarely talk with each other. There is no coordination between the two.

The Federal Government has no high-ranking Indian education official to tackle these tough problems. There is a Director of Education in BIA and a Deputy Commissioner in OE. Both are submerged in bureaucracy. Since 1966, the average tenure of the BIA Education Director has been just 9 months.

These are all serious problems that cannot be remedied within BIA. In examining the past performance of the BIA, I can find no justification for leaving education in that agency.

The Governmental Affairs Committee consulted extensively with Indian people on this proposed reorganization. The Inthe money they spend on Indian education than they will if Indian education programs remain in the BIA.

I commend the committee not only for the entire bill but for the particular diligence they put into Indian education. They communicated with Indian leaders and Indian people across this land. They submitted questionnaires to Indian leaders and Indian people across the land. They set aside ample time for hearing on just this issue, and I commend them for that.

They could have been less diligent in this matter, which is a small part of the total function of the Department of Education.

As we conclude this discussion, I urge Senators to vote not only for this bill but for this transfer. If it does not work, we can do something about it later. I assure you that we have protected our Indian people as well as they are protected now. The chances of their getting something better for their children, in my opinion, really rests within the new Department of Education, not within the BIA.

Mr. RIBICOFF. Mr. President, as floor manager of this legislation, I strongly oppose the Stevens amendment.

For the past 150 years, primary responsibility for Indian education has rested with the Bureau of Indian Affairs. The BIA's performance record is a national disgrace.

Today, achievement rates of Indian students continue to stay far below the national average;

Dropout rates for Indian children at $62 million Indian employment program, HUD has $30 million in Indian housing, and HEW has the $370 million Indian health service. Why should we leave Indian education out of the Education Department?

BIA's institutional weaknesses inhibit an effective Indian education policy. The Bureau's area offices usually view education as a secondary function. The BIA Director of Education has little input in the system.

Despite congressional mandates, tribes still have little influence or local control over Indian education. Fewer than 35 tribes have contracted with the BIA for school operations. The BIA has slowly implemented the Indian Self-Determination Act.

The Bureau's education budget has been mismanaged and spent inefficiently. In 1977, the BIA spent as much as $13,000 per student in its day schools, and as much as $22,000 per student in its boarding schools. The nationwide average per pupil cost for children in public schools in 1977 was $1,561, $2,000 less than the average amount spent in BIA day schools. For large sums like these, we could send Indian students to some of the finest college preparatory schools in the country, where tuition now averages just $6,000 or $7,000 per year.

Members of the Senate should note that the per-pupil costs for the Defense Department's overseas dependents schools—which will also be transferred to the Department of Education—are much lower than those of the BIA. Even though the DOD schools are spread out dian people had a number of legitimate concerns with the original version of S. 991. As reported by the committee, the bill before the Senate today addresses their concerns:

It sets up a distinct, tangible office in the new Department of Indian Education, headed by an Assistant Secretary. The office will be on an equal footing with other interests in the Department.

The bill contains a provision requiring the Department to uphold the trust responsibility.

It insures the transfer will not change existing eligibility standards of BIA and OE programs.

It provides specifically for the continuation of existing Indian preference laws in the new Department.

It amends the Indian Self-Determination Act to make its provisions fully applicable to the new Department.

The legislation directs the Secretary of Education to institute more local control of education by Indian people.

It provides for Indian representation on the Intergovernmental Advisory Council on Education.

The legislation provides for a 3-year phase-in period for BIA schools which will allow for the transfer to be conducted with little disruption and much consultation.

S. 991 will not terminate the Federal responsibility for assisting Indian education. It will enhance it. I believe it will be the single greatest improvement of the Federal effort in this area.

In 1961 when I was Secretary of HEW, we worked hard to complete the transfer of Indian health services from

BIA to HEW. By all accounts, Indian medical services have dramatically improved since the transfer.

Likewise, I expect Indian education will improve greatly by the transfer we are considering today.

We are serious about doing something to improve the education of Indians, Alaskan Natives, and Aleuts. As long as it remains in BIA, it will never significantly improve.

I hope the Stevens amendment is defeated.

Mr. PERCY. Mr. President, I ask unanimous consent that a letter from Secretary Andrus, Secretary of Interior, and an accompanying statement by the President of the United States, Jimmy Carter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 11, 1978.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am writing to urge your support for S. 991, the Department of Education Organization Act of 1978. The President considers this an important initiative, and urges passage this year. The creation of a Department of Education represents a vital step in increasing the Government's capacity to provide visible and effective leadership in addressing our country's educational needs.

Let me further urge support for the transfer of the Indian education programs now located in the Interior Department to the new Department. The Federal Government spends over $500 million annually on edu-

Indian tribes and Indian people in any way. These relationships include Federal trust responsibilities, Indian self-determination, and Indian preference in hiring. My goal is to improve the delivery of education services to Indians while maintaining these special relationships.

It is especially important that we maintain educational services to Indians without interruption, protect their civil rights, preserve the integrity of the education programs, and strengthen participation of parents, tribes, and Indian people in the education of their youth. A clear recognition of the importance of these issues will help us achieve an orderly, phased transfer of the BIA programs to the new department, while protecting the interests of Indian people. I expect and hope that Indian tribes and Indian people will work with my Reorganization Project staff to assure that these objectives are met.

Throughout the Nation, our educational systems are facing important challenges. For the first time, the new department will permit a coordinated and high-level response to these challenges. I ask Indian tribes and Indian people to join with us in shaping a new Department of Education that is responsive to their concerns and worthy of their support.

JIMMY CARTER.

Mr. PERCY. Mr. President, I would like to say that I regretfully have to oppose the pending amendment for three reason, the first being the overriding reason for the transfer is the poor nature of Indian education. For example, 50 percent of Indian students entering elementary school will have dropped out before they finish high school; 75 percent of Indian college students will drop out. The

from New Mexico on this matter, but it is quite clear to me, as the one who did chair the hearings, that their complaint is twofold: first, they oppose this; and, second, they vehemently object to the procedure which denies them the consultation they were guaranteed. They were guaranteed in the Indian Self-Determination Act the right to consultation, and they were guaranteed that by President Carter. President Carter sent a telegram to every tribal chairman, and promised that this administration would consult with the Indian people in their tribal councils before making decisions which would affect the Indian people.

I am not being political, because they came before me as I represented the chairman of the committee and all other members of the committee, and the record is clear, that it was the Indian people who raised this question of the commitment that was made to them that changes like this would not even be suggested without consultation with them in their tribal councils. Now that is the second portion of their objection, and I think it is valid, just as valid as their total opposition to the transfer itself, which is their opposition based upon the fact that they were not consulted as the President had committed his administration to consulting with the tribal leaders prior to making such a representation.

I again say to the chairman and the ranking minority member of the committee, while we can have complete supcation programs for Indians, divided almost equally between BIA and the Office of Education. Placing all of these programs in one Department will permit for the first time a comprehensive approach to Indian education policy development and management.

Indian tribes and their members enjoy certain special relationships with the Federal Government, and great care has been taken to protect those relationships in S. 991. Self-determination policies, Indian preference in personnel actions, eligibility criteria, and the trust relationship have been protected by specific provisions in the bill. A separate office for Indian education reporting directly to the Secretary will give Indians a strong policy voice at the Federal level. To minimize disruption and ensure adequate consultation with all Indian people, S. 991 provides that the transfer of the BIA schools is to be phased in over a three-year period.

In a recent message, the President commented on the importance of the special relationships that the Federal Government has with Indian tribes and pledged that the transfer of the BIA programs would not diminish them. I am enclosing a copy of that statement. I believe that this offers a significant opportunity for improving Indian education.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Enclosure.

THE WHITE HOUSE,
Washington, July 19, 1978.

Under my proposal for a Cabinet Department of Education, the Indian education programs now located in the Bureau of Indian Affairs (BIA) would be moved to the new Department. I have recommended this transfer because I believe it will make Federal school-based programs more effective.

This transfer will not change the special relationships between the government and potential for improving Indian education will be greater if jurisdiction for it lies with a department whose sole purpose is education.

The bill creates an office within the Department of Education solely devoted to improving Indian education headed by an Assistant Secretary. In addition, the committee expects and urges that that Assistant Secretary be of Indian, Alaska Native, or Aleutian origin.

The bill directs the Secretary of Education and the Assistant Secretary for Indian education to institute more local control of Indian education by the Indian people themselves. This is in keeping with our belief that primary policy responsibility for school should reside with the local community.

Mr. STEVENS. Mr. President, there are others who have indicated that they wished to speak. I see the Senator from Oklahoma is here.

I would just say again, as far as I am concerned it does little good to say that we submitted questionnaires to the Indian people and to say that we held hearings and asked them to come in and discuss a proposal made by the Federal Government.

The commitment was made to them that they would consulted before such a change would even be suggested. The promise was made to them that we would go to their councils and we would work with them to try to figure out what was the best course to take with regard to BIA schools and education programs and other Indian programs.

I find it very difficult and sad that I do not have the support of the Senator port for a Department of Education, that is, I think, it is like taking ROTC from the Department of Defense and turning it over to the Department of Education, that it makes no sense because these people are part of a whole community, an Indian community, as such. There is a different type of community in most places of the country than the non-Indian or native communities, and they work with problems all the way across the community, not only educational programs but the whole concept of the modernization and improvement of their way of life which is involved in their council operations. This takes it away from them at the very time they have achieved a degree of responsibility and control under acts we passed in this Congress just within the last 6 to 8 years. It takes away from them the very reasons for self-determination, and that is the control over the educational programs of their own children.

I think if we propose to do this for all of the unincorporated areas—let us just assume this was all the unincorporated areas of the United States, and the Federal Government came along and said, "We can do it better than the local people; let us put this in the Department of Education and manage their daily functions from Washington"—the reaction would be overwhelming. But that is exactly what this says. This is a local school responsibility, and the only reason it comes into the Federal Government at all is because of the Federal Government's prestige and responsibility to the Indian people. And the beneficiaries of that trust have demanded that the educational function stay with the BIA.

I hope the Senate will not let the Indian people down in this regard today.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, will someone yield me time? I do not know how time is being allocated.

The PRESIDING OFFICER. There is no limitation on time.

Mr. BARTLETT. Fine.

Mr. METZENBAUM. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BARTLETT. I yield for a question?

Mr. METZENBAUM. Yes.

Mr. BARTLETT. I yield.

Mr. METZENBAUM. Is the Senator going to address himself to the Indian Affairs matter?

Mr. BARTLETT. Yes.

Mr. METZENBAUM. I would like to say to the Senator from Oklahoma and others concerned that there is a priority understanding with respect to the natural gas bill. If this matter can be concluded in 10 or 15 minutes, I see no particular problem with it. If not, I would raise the point, but I am certainly willing to stand back for 10 or 15 minutes.

Mr. STEVENS. Mr. President, if I may say so, the Senator from Oklahoma has been waiting, and if the Senator from Ohio will accord him the courtesy of listening to his remarks, I think it would be appropriate. There are other Senators

programs and services administered and delivered for their benefit, the Indian people are probably just as perplexed as I am as to why in the face of overwhelmingly strong opposition to the transfer of Indian schools and education programs the proposal to transfer these activities to the new Department of Education was advanced by the administration at all.

When President Carter, on October 14, 1976, delivered his special message to American Indians, it was replete with assurances that Indian self-government will prevail in the administration's handling of the affairs of Indian people; that decisions affecting Indian tribes would be made in the tribal council rooms and not in Washington, D.C. A most impressive ending to that message must have been music to the ears of Indian people throughout the country, when the President stated:

> Finally, I will not take unilateral action on any issue regarding Indian affairs or Indian programs without full consultation with tribal representatives. Ours will be a Government of participation, of action, of program involvement, and of true self-government.

First I want to address myself to the first part, the Indian self-determination. Certainly it is true that the Bureau of Indian Affairs can be severely criticized for their inadequate and inept handling of Indian education. But I think by the same token the Bureau of Education of HEW can likewise be criticized for their inept handling of education.

There are many Indian students in our public school system. In fact, in Okla-

So, just at the time when we had told the Indians of this country that we want them to determine their own future, we then take away the opportunity for them to do that, as far as the very important area which their education is to them is concerned.

Education, of course, is most basic to the continuation, perpetuation, and instruction in their culture. By invading this very important area, I think we are guilty of breaking our word once again to the Indians. The President, through his action, is doing likewise. It reminds me of the letter to wrote to Governor Boren of Oklahoma concerning deregulation of natural gas, saying he was for it. This was 17 days before the election. But now he is for controls on natural gas. Here again is an example of his completely reversing himself, and this time to the Indian people.

I would say to the distinguished floor manager that it reminds me of when I was young, and we used to have cowboy and Indian games. I learned then about "Indian giving." I do not know whether the distinguished Senator from Connecticut has ever heard about Indian giving. But Indian giving, to me as a boy, was portrayed as Indians giving their word or giving something of tangible value to someone else, and then later taking it back.

I would like to say to the distinguished Senator from Connecticut that that really is not Indian giving. I really found out as an adult, a few years later, what Indian giving is. I learned in at several who wish to speak also. The Senator from Ohio is entitled to time before the vote on this motion, of course; I would respect the Senator's wishes in that respect.

Mr. METZENBAUM. May I suggest that we accord the Senator from Oklahoma appropriate time?

Mr. STEVENS. Such time as he may wish, and then afterwards set this aside with the consent of the chairman. That is the understanding, that the energy bill comes first. I know Senator GOLDWATER wishes to be heard, and other Senators have indicated that they wish to be heard, but they are not present.

Mr. METZENBAUM. That is satisfactory.

Mr. STEVENS. However, first I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. I certainly understand the request of the Senator from Ohio, and I will be fairly brief.

Mr. President, the Indian people throughout this country have every reason to expect this Congress to adopt Senator STEVENS' amendment. Having received in 1975—just 3 years ago—through enactment of the Indian Self-Determination and Education Assistance Act, this Congress expression of support for maximum Indian participation in the policy-making decisions that affect their lives and well-being and in the direction of

homa there are more Indian youngsters in our public school system than there are in the Indian schools. And I think that our public school system in Oklahoma ranks fairly well nationally.

But I would like to point out that the Johnson-O'Malley funds which are to be available in public schools for the special needs of Indians have not really been utilized effectively or efficiently for them and their needs.

One of their great needs is counseling. They have a different culture. They look upon competition in schools differently from the white students. They have special needs that have not been met in the public schools.

So, I do not see the reason for the great desire to move very quickly to transfer this to the Department of Education, and I presume to the public school system. I think that perhaps the public schools do offer a great opportunity for some Indian students, but only with adequate counseling and only with special consideration of Indian culture and Indian needs.

I am reminded by the apparent reverse action here—or at least the effort to reverse the action on Indian self-determination by the President and this committee to take away Indian education from the Indians themselves—that self-determination started the first effort among the Indians at having their own school boards, of having responsibility for the first time for their own educational system. Obviously, in 3 years you can only effect a beginning; you cannot very well adequately establish a real change in an education program.

Indian pow-wows which I attended. At these pow-wows, they quite often will pick out one or more people who are men or women to be honored by the tribe.

As they honor them, they have a special dance in which the honoree and his family make a parade and dance around the area. Then the men, in the several cases I saw, would stand in front of all the other Indians. The other Indians as they kept dancing, would bring gifts to him. These gifts could either be money or they could be blankets, various things of value, which they would place at the foot of the honoree.

Then as the gift giving part was finished, the honoree would pick up the gifts. Then he would dance around the dancing area and he would give these out. He would give these gifts, money, blankets, and other things of value, to the older people, to the obviously poorer people, and those who would have need for either the money or the gifts.

This is Indian giving. It is the kind of giving I think we should emulate rather than the kind of Indian giving that we have thought for so long was really Indian giving, which is white man giving. It is the white man saying, "Yes, we will recognize Indian self-determination, but for now we are not going to give the chance to the Indians to develop their Indian committees on education, to do the job they know needs to be done."

The record clearly shows that 90 to 95 percent of the federally recognized tribes and Indian interest organizations oppose this transfer. They list a number of reasons for their objections.

Although the Governmental Affairs Committee made an effort to address these objections in the bill, it is obviously still not satisfactory to Indian tribes as the mail, telephone calls, and office visits continue to call attention to Indian opposition to the transfer.

Mr. President, I have a rather lengthy speech which quotes many of the reactions of Indian tribes throughout the country to the proposed transfer, which indicates just how strongly they feel about this matter, and lists major reasons why the transfer should not take place, reasons that are based on the Indians' experience in dealing with the Federal Government for many, many years.

To me, their reasons make sense and are clearly reason enough to let the Indian schools and education programs remain where they presently are, at the focal point of Indian activity in the Bureau of Indian Affairs.

I ask unanimous consent that my speech be made a part of the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. I think possibly the Colorado River Indian Tribe in Arizona hit the nail on the head in its response to the question of transferring education programs to the new department, when they stated:

> It is not a new department that is needed but implementation of the promises, goals, and objectives that have been expressed in the past.

absolutely nothing about them. BIA does have a lot of knowledge.

I do think we are on the right track in dealing with the self-determination bill which gives primary responsibility to the Indians, which gives them the opportunity of devising a sensible program.

I earnestly urge my colleagues to oppose this provision in the bill, to support the Stevens amendment, and to make sure that the Indians are going to be dealt with squarely, and with justice.

EXHIBIT 1

STATEMENT BY MR. BARTLETT

I rise today in support of Senator Stevens' amendment to S. 991, the Department of Education Organization Act of 1978.

I oppose the transfer of BIA schools and education programs to the proposed Department of Education for many of the same reasons the vast majority of Indian people and Indian interest organizations do.

During the 93rd Congress, I actively supported the enactment of the Indian Self-Determination and Education Assistance Act which was designed to provide maximum Indian participation in matters affecting Indian people and Indian lives. In enacting this Legislation in 1975, Congress declared policy in part with the following words:

"The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities."

Approximately one year later on October 14, 1976, President Carter delivered a spe-

out of the BIA, Department of the Interior, to the proposed Department of Education."

The Shoshone-Bannock Tribe of Idaho: "We are convinced that, regardless of any assurance to the contrary, to place our BIA and tribal schools in such a Department would lead to public school control of everything. We oppose very strongly any attempt to erode the basic structure, however gradual, of the current system."

Colorado River Indian Tribes of Arizona: "After all the years it has taken the Bureau of Indian Affairs to understand the operation of government schools for our youth, it would take much longer and more to orient a new Department. It is not a new department that is needed but implementation of the promises, goals, and objectives that have been expressed in the past."

Red Cliff Band of Lake Superior Chippewa of Wisconsin: "Our tribe and many others believe that the BIA has not been perfect in the past, but through years of struggle, turmoil, and negotiation, we have gotten the BIA in a place where they are finally acting as the advocate and trust agency it was intended to be. We urge you to leave BIA education programs in the Indian Bureau where we have guarantees of improved quality education programs while we have major unresolved issues with USOE. . . ."

Lac Courte Oreille Tribal Governing Board of Wisconsin: "We regard this proposed transfer as an effort to evade the trust responsibility and commitments of the Federal Government."

Mescalero Apache Tribe of New Mexico: "We strongly feel that the Federal Government has a distinct and unique relationship to Indian people and tribes through treaties, etc., and should not lose this identity by lumping us and our special needs in with all other programs concerning education, for fear of being lost in a giant maze of educational

Mr. President, my State has more Indian tribes than any other State, 37, and it has more Indians than any other State. All the tribes and all the responses I have received from my State have indicated their strong opposition to this transfer of Indian education to the new department.

Obviously, the new department will know very little about the special requirements and needs of Indian education. I would tell the distinguished floor manager it has been my experience in Oklahoma that this is a very unique need that the Indians have. They do not compete the same way. They are not as many white children, wanting to raise their hand to answer a question. They [illegible] not raise their hand when they think [illegible] of their friends does not know the answer. They do not want to show them up. So they do have a different culture, a very good one. It is one that we could imitate, if we would, in many regards.

I think we are getting ourselves into something here that the committee was not equipped to properly assess, nor was the President properly advised, nor would the Congress be acting in good faith to the Indians of this country if they continued this provision in the Education Act.

I introduced legislation on a new Department of Education some years ago, and I have a bill in now. So I am in favor of a new department. I think it is most important that we have it. But I am just as strongly opposed to the new department taking over the responsibilities of the Indians because they know cial message to American Indians that was replete with assurances that Indian self-government will prevail in the handling of the affairs of Indian people, that decisions affecting Indian tribes will be made in the Tribal Council rooms and not in Washington, D.C. The President ended his special message to the Indian people by stating that:

"Finally, I will not take unilateral action on any issue regarding Indian affairs or Indian programs without full consultation with tribal representatives. Ours will be a government of participation, of action, of program involvement, and of true self-government."

In view of the Congress' declared policy in enacting the Self-Determination Act and the President's pronounncements that true-government will prevail in deciding Indian issues, I find it difficult to understand how the Administration and the Governmental Affairs Committee on July 11, ignored the expressed wishes of the vast majority of recognized Indian tribes and took action to transfer the BIA schools and education programs to the new Department of Education.

The Committee report on this action states that comments and input were actively solicited from more than 350 tribes and organizations across the country, but the report does not speak to the results of that solicitation. If I may, Mr. President, I would like to share with my colleagues some of the responses the Committee received from recognized tribal governing bodies and Indian interest organizations across the country. These comments represent the views of the vast majority of Indian tribes contacted who are served by the schools and education programs the Committee wishes to transfer.

From the National Tribal Chairmen's Association, National Congress of American Indians, and the Alaska Federation of Natives, all organizations that represent the federally recognized tribes in the United States the response was "an emphatic and uncompromising no to the transfer of Indian education gobbledygook . . . We do not favor transferring the operational and policy responsibility of the Bureau of Indian Affairs schools to such a department as the trend to more local Indian control of these schools needs to continue rather than be relinquished."

Comanche Indian Tribe of Oklahoma: "The concept of including those educational functions now assigned to the Assistant Secretary of Interior for Indian Affairs in a new Department of Education would not result in any improvement in Indian education systems. The transfer of the BIA-run school system to the Department of Education would lead to total elimination of schools separately established and identified for Indians."

The views of the Comance Tribe are representative of responses my office received from other tribes in my State of Oklahoma. The United Tribes of Western Oklahoma and Kansas comprising a total of 23 tribes—21 Oklahoma tribes and 2 Kansas tribes and representing more than 55,000 Indian members—are "unanimously opposed to the transfer of the Bureau of Indian Affairs education programs and services to the proposed Department of Education." I could go on and on with responses from Federally recognized tribes that oppose this transfer. It is clear to me that 90 to 95 percent of the Federally recognized tribes and Indian interest organizations throughout the country do not want Indian education programs moved to the proposed new department. To proceed with this action, which certainly runs counter to the desires of the Indian people, is not in line with either the declared policy of Congress in enacting the Indian Self-Determination and Education Assistance Act or the President's pronouncements that true self-government will prevail in Indian affairs matters.

Indian tribes must have a focal point, an agency with which to deal on all matters relating to Indians. Despite its management and organizational problems the BIA remains the focal point for the tribes and has an understanding of the magnitude of the problems. To separate this trust obligation from the lead agency charged with administering the trust responsibility to American Indians is the beginning of the end of the trust and would diminish the agency's advocacy role to a level of ineffectiveness. One of the reasons President Carter gave for not including transfer of Veteran's Education Programs to the new Department is that he was committed to one-stop shopping for Veterans. That same one-stop commitment is equally appropriate for Indians as it is for veterans. By placing Indian education programs in the new Department, Indian tribes will be forced to compete with larger, more powerful constituent groups. Experience has shown that when an Indian program is begun by another department or agency that has no long range goal in Indian affairs or little sensitivity to the desires of Indian people, Indians are just another disadvantaged minority. Indians are not "just another" minority; Indians are the only minority with which the Federal Government has a long-standing unique legal and historical relationship. The problems are similar to other minorities; the relationship with the Federal Government is not. It will be difficult if not imposible for tribes to stand on an equal footing with outside special interest groups who will influence decision making within this new Department of Education. A good example of what happens to Indian programs in an agency with little or no experience in administering to Indian needs is the Department of Housing and Urban Development's efforts to provide safe, decent and sanitary housing for Indian and Alaska Natives.

There is no assurance that improvements in Indian education will be achieved any ... stroy the only true advocacy agency for Indian people existing in our governmental structure.

Mr. President, in view of the detrimental effect removal of this major function from the Bureau of Indian Affairs will have on the agency and the Indians' faith in their trustee, the Federal Government, I ask my colleagues to support Senator Stevens' amendment so Indian tribes will know that at least some of us listen to what they have to say and believe it is they who know what is best for their well-being.

NATURAL GAS POLICY ACT

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that David Johnson, of Senator Muskie's staff, be granted the privileges of the floor in connection with the debate on the natural gas conference report.

The PRESIDING OFFICER (Mr. Anderson). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, did my good friend from Montana wish me to yield? I wanted to have a colloquy with the Senator from Connecticut about this amendment. The energy conference report does take priority. We are prepared, with the majority leader's consent, to enter into an agreement that there be 40 minutes on each side on my amendment and the amendment would come up following the disposition of the energy bill on Wednesday, the 27th, if that would meet with the approval of the

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Montana (Mr. Melcher) proposes an unprinted amendment numbered 1842.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 54, immediately after the period on line 11, insert the following: "The Secretary, through the Assistant Secretary for Occupational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.".

Mr. MELCHER. Mr. President, the amendment I am offering today to S. 991 does not create any new Federal programs. What it does, is give to the planned Office of Occupational, Adult, and Community Education the specific authority to coordinate existing educational programs scattered throughout the new Department of Education and work with the Federal Interagency Committee on Education to coordinate support functions located in related Federal agencies, into a unified family education approach to better serve the needs of our faster or to any greater degree by placing it in a new structure than can be achieved in its present location. Historically USOE has given little or poor service to Indian education programs, which attests to the USOE's lack of commitment and understanding of tribal educational and social needs at the reservation level. USOE is a grant-oriented agency without even a general background in providing services to Indian tribes and communities, and I can see no advantage to placing Indian education programs in this setting. Surely the transfer is not considered necessary if the programs are to be funded and managed adequately. There is no convincing explanation as to why Indian programs can only be adequately funded and managed if removed from the BIA.

Most importantly, the true goal of Indian self-determination cannot be achieved with the transfer of Indian education. Indian people are striving for self sufficiency and control over all aspects of their lives; education is the method of attaining these goals, but such cannot be achieved if education occurs in a social, political, or economic vacuum. Indian people must have a part in directing Indian education policies and emphasis must follow if they are to see the concepts of self-determination come to fruition.

Indian opposition to this transfer is based on many years experience in dealing with the Federal Government. The apparent determination of the Administration to proceed with the transfer despite the wishes of the vast majority of Indian tribes indicates that, in an effort to provide an organizationally-efficient government, the Carter Administration is signaling an end to the BIA and fragmentation of all of the functions housed therein. To remove Indian education programs from the BIA which represents approximately two-thirds of the employees and approximately one-third of the budget, would reduce the Bureau's stature in the Department of Interior which the Indian people have worked many years to achieve and de-

Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I just cannot see that far down the road beyond the disposition of the conference report at the moment.

Mr. STEVENS. May we enter into the 40 minutes on each side?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Subject to the chairman's request, I would be agreeable to that.

Mr. RIBICOFF. That is agreeable to the manager of the bill.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The Senator from Montana.

Mr. HATCH. If the Senator will yield, I ask unanimous consent that Chris Palmer of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

UP AMENDMENT NO. 1842

(Purpose: To provide for a unified approach to rural family education)

Mr. MELCHER. In light of the unanimous-consent agreement on the Stevens amendment, I ask unanimous consent that it be in order to present an amendment at this time on the education bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Nation's rural economically disadvantaged families.

For many years now, those of us representing States with large rural constituencies have been aware that most of the Federal programs that have been created to break the cycle of structural poverty in the United States have been of little benefit to the rural poor. The nature of the problem lies not in the substance of the programs, but in the nature of their delivery. Authority for administering the programs is divided up, bureaucratically, with very little coordination at the point of delivery. One office concentrates on vocational and occupational education, another on education for home management, another on adult basic education, another on special education for children, yet another on health education, and so on down the line. Such fragmentation has been possible in dealing with urban populations, because of the close geographical proximity of the families that take part—although even here I think many of our planners are beginning to realize that without better overall coordination the result is unnecessary overlap of some programs and gaps between others. This reduces the beneficial impact on the families that take part, and leads to waste and inefficiency.

But what is an inconvenience in an urban setting becomes an insurmountable difficulty in rural areas. For example, in Montana vocational educational schools are often hundreds or more miles apart, as are adult education centers, counseling centers, child development centers, career education centers, and so on. More important it seems never to be the same hundred miles. Often our rural disadvantaged do not even have the ability to seek out and find help when the services are so fragmented and geographically scattered. These problems are not unique to Montana. I am sure they exist throughout much of rural America, and they require attention if we are not to continue to discriminate against our rural families.

In Montana, we have tried to meet some of the needs of rural disadvantaged families in our State, as well as North Dakota, South Dakota, Wyoming, Nebraska, and Idaho, by providing an integrated family education program in a residential setting. The key concept which governs this approach is that the families are brought together in a residential setting, and a broad range of educational and supporting services are provided—treating the entire family as a unit. The families, recruited from within the six-State region, take up residence in existing facilities on what used to be Glasgow Air Force Base near Glasgow, Montana. They reside there for approximately 9 months while they take part in an educational program designed to meet the needs of the entire family. This includes vocational education and career education for the head of household (and sometimes the spouse as well), education in home management and parental responsibility, consumer education, basic adult education, elementary and secondary education, health education, and special education programs when needed. As you can see from this

The President proclaimed that—

> Government policy should be aimed at strengthening and supporting the family as our most vital and enduring social resource.

This is a laudable goal and I wholly support it. However, I do not think that we must or should wait until 1981, or after, to take the first step to see that our disadvantaged rural families have full access to the kinds of educational services that can help to improve all facets of their life. The Office of Occupational, Adult, and Community Education is the right place to coordinate a family educational approach. The Government Affairs Committee's report states that a major mission of the Office of Occupational, Adult, and Community Education is to coordinate a "blend" of programs that will "improve the quality of life and coordinate education and work programs" for the American people. I believe that part of this mission should be to give the Office of Occupational, Adult, and Community Education the authority to assist in meeting the needs of the rural family as a unit, and to coordinate efforts from all sectors of the Department of Education, and other related agencies, to accomplish this goal.

My amendment is a modest request, in light of the dozens of programs and some $17 billion of authority to be assigned to the new Department of Education—however, it is vitally important to thousands of rural families that may be helped by better coordination at the Federal level. I urge my colleagues to support this amendment.

On page 71, line 25, strike out the period and insert "; and ".

On page 71, after line 25, insert the following:

"(xiv) under the Career Education Incentive Act.".

On page 85, line 7, strike out "subsection (b)" and insert in lieu thereof "subsections (b) and (c)".

On page 86, strike out line 5.

On page 86, lines 6–11, redesignate "(F)", "(G)", "(H)", "(I)", "(J)", and "(K)" as "(E)", "(F)", "(G)", "(H)", "(I)", and "(J)", respectively.

On page 86, after line 25, insert the following:

"(c) The Secretary may not alter, consolidate or discontinue the Office of Career Education, or reallocate the functions vested in such Office by the Career Education Incentive Act, Section 406 of the Education Amendments of 1974, or any other statute prior to October 1, 1983 unless (A) funds are not appropriated to carry out the provisions of such Act for any fiscal year preceding such date and (B) a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action. After October 1, 1983 such Office shall not be altered, consolidated or discontinued, or its functions reallocated unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action list we offer the student families the entire range of educational services to be included in the new Department of Education. Central to this entire approach is the concentration of services and the focus on the entire family as a productive and mutually supportive unit.

The program has, we believe, been very successful on the limited level that we have been able to maintain it, without the support of a coordinated Federal effort. It is an approach which goes beyond the traditional concept of "job training." In treating the educational needs of the entire family together in a residential setting, it represents an effective way to not only improve employability, but also increase the standard of living and participation in the community for disadvantaged families.

The viability of this approach has long been recognized by those in close contact with it. It has received strong support during its 6 years of existence from the Governors of the region, the congressional members of the six States, the regional governmental councils, the agencies within the region, and most important of all from the student families who participate.

This approach has also begun to gain national recognition. President Carter has called for more attention to the development of a sound American family. In announcing the White House Conference on Families to be convened in Washington during 1981, he stated that—

> The main purpose of the Conference will be to examine the strengths of American family life, the difficulties faced, and the ways in which family life is affected by public policies.

Mr. RIBICOFF. The Melcher amendment is acceptable to the manager of the bill, Mr. President.

Mr. PERCY. It is acceptable as far as I know. I know of no objection on this side.

Mr. MELCHER. I thank the Senators and I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1643

(Purpose: To insure that the Department of Education carries out Career Education programs consistent with the structure of Public Law 95-207)

Mr. RIBICOFF. Mr. President, on behalf of the Senator from Maine (Mr. HATHAWAY) I send an amendment to the desk and ask that it be stated. It is in behalf of the Senator from Maine (Mr. HATHAWAY).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Connecticut (Mr. RIBICOFF) on behalf of himself and Mr. HATHAWAY proposes unprinted amendment No. 1643:
>
> On page 50, between lines 20 and 21, insert the following:
>
> "(4) administration of programs pertaining to career education;".
>
> On pages 50, 51 and 52, redesignate "(6)", "(7)", "(8)", "(9)", "(10)", "(11)", "(12)", "(13)", "(14)", "(15)", and "(16)" as "(7)", "(8)", "(9)", "(10)", "(11)", "(12)", "(13)", "(14)", "(15)", "(16)" and "(17)", respectively.
>
> proposed to be taken pursuant to this subsecion and the facts and circumstances relied upon in support of the proposed action.".
>
> On page 87, line 1, strike out "(c)" and insert "(d)".

Mr. HATHAWAY. Mr. President, the intention of this amendment is to insure that the new Department of Education carries out the purpose of the Career Education Incentive Act consistent with the structure envisioned by Congress in enacting that legislation, which was signed into law on December 13, 1977.

The amendment would require that for the next 5 fiscal years the Office of Career Education could not be discontinued or consolidated unless for any year Congress failed to appropriate funds to carry out the purposes of that act and unless the conditions already established in section 413 of the committee bill were complied with. Those conditions allow discontinuation or alteration of a number of statutorily created offices if a period of 90 days has passed after notification to the Senate Committee on Human Resources and the House Committee on Education and Labor, including a complete justification for the rationale behind the reorganization.

This aspect of my amendment thus provides for a limited exception to the reorganization provisions contained in the committee's bill. But, for reasons I shall explain, I believe this exception is vitally needed if Congress clearly expressed goals regarding career education are to be fulfilled.

The amendment also would include administration career education programs in the functions of the Department listed in section 203 of the bill, and would explicitly include the carrying out of the Career Education Incentive Act in the transferred functions listed in section 301 of the bill.

Together, these changes will insure that the 5-year career education program so recently enacted by Congress will receive appropriate, focused attention in the new department.

The Career Education Incentive Act was intended by Congress to instill career education concepts into the elementary and secondary levels over a 5-year period of time. At the conclusion of this time period, all Federal funding would cease. Consistent with this, the act provides authorizations of $50 million in fiscal year 1979, $100 million in fiscal year 1980 and fiscal year 1981, $50 million in fiscal year 1982 and $25 million in fiscal year 1983. Concurrent with these bell-shaped authorizations, the required non-Federal share of the part of State and local education agencies gradually increases over the same period, from no match required in fiscal year 1979 and 1980, to 25 percent in fiscal year 1981, 50 percent in fiscal year 1982 and 75 percent in fiscal year 1983. In this way, when Federal expenditures cease, the State and local education agencies will be in a position to undertake the entire burden.

This unusual, built-in sunset feature will require a smoothly functioning administrative structure for career education at the Federal level. Further, because career education by its very nature integrates basic educational skills, specific job skills, and knowledge of available year under the act, Congress will provide between $22.5 and $25 million for elementary and secondary career education formula grants, despite administration opposition.

Despite the requirements of section 431 of the General Education Provisions Act, regulations have yet to be published in the Federal Register, a full 9 months after the bill was signed, and 1 month after the final deadline.

For all of these reasons it is necessary to incorporate into the legislation establishing this new Department of Education explicit provisions preserving the programmatic integrity of career education.

Mr. President, I appreciate very much that the distinguished Senator from Connecticut offered this amendment on my behalf. I did just arrive back from Maine and I am prepared to offer the amendment myself.

This would simply exempt the Career Education Office from the reorganization provisions of the bill, which would otherwise provide that the Secretary may abolish any one of 10 offices including the Career Education Office after 90 days of consultation with the House and Senate committees. Since the Career Education Act is only a 5-year bill, I thought it would be better to allow this office to be abolished only if Congress did not appropriate any money for that.

Mr. RIBICOFF. Mr. President, the amendment has a good purpose and is acceptable to the manager of the bill.

> So many offices and institutions deal with education in the federal government, that speaking about an education policy is mere wishful thinking. Yet, even though education is left to the states in our system, this lack of coherent education policy on the federal level has caused an undue burden on state and local authorities. Much of this burden stems from a fragmenting of federal education decision and policy making. It is caused by a duplication and reduplication of requirements on local education authorities.

The Department of Education Act, S. 991, correctly emphasizes the primary role that State and local governments have in the education of our children. This local control is essential and is the backbone of our public school system.

But the Federal Government must be prepared to meet its obligations in assisting the States. We must realize that State and local governments are reaching the breaking point in their ability to raise revenues for public schools, and we must be prepared to provide imaginative leadership in this critical period for education. Federal assistance must be maintained at an adequate level and our efforts must be well-coordinated. A fragmented HEW can no longer offer the necessary leadership.

A Department of Education in the Cabinet will allow us to consolidate and coordinate efforts at the Federal level. At the same time, by eliminating overlapping and conflicting jurisdictions, we can save the State and local governments time and money, we can cut paperwork, avoid duplication, and give able job opportunities and requirements, it is essential that coordination of all relevant Federal programs and policies be carried out.

With this in mind, the Career Education Incentive Act requires that administration at the Federal level be undertaken by the Office of Career Education, established within the Office of the Commissioner of Education by the Education Amendments of 1974. Under this organizational structure, the relevant elements of all appropriate Federal educational programs can be focused to achieve the goals of career education. Equally important, States and local educational agencies can look to one location for assistance in carrying out their career education plans. Under the new bill this office must continue to exist within the office of the Secretary and its functions must be continued lest the will of Congress and the needs of the States be frustrated.

At this point in time it is especially important that we underline our commitment to the importance of career education and that we insure its continued integrity in the new department.

I am fearful that unless these amendments are incorporated into the pending bill, the administration will attempt to submerge career education in the interstices of a disinterested bureaucracy as part of a conscious effort to impede its progress rather than carrying out the law as enacted by Congress.

The Career Education Incentive Act was passed overwhelmingly by Congress in spite of administration opposition. For fiscal year 1979, the first program

Mr. PERCY. Mr. President, there is no objections on the minority side. The amendment is acceptable.

Mr. HATHAWAY. I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. SASSER. Mr. President, the legislation we are considering today is a long-needed step in improving our Nation's Federal education policy.

For many years, the education experts in Congress and across the country have stressed the need to remove the education programs from the Department of Health, Education, and Welfare and establish a separate Department of Education in the Cabinet. And in my campaign for the Senate and since the beginning of my term, I have witnessed almost unprecedented support in my State of Tennessee for a Department of Education.

This bill, Mr. President, has my unqualified support.

I wish to commend the distinguished chairman of the Committee on Governmental Affairs, the distinguished floor manager of S. 991, Senator Ribicoff, for his tireless efforts in behalf of this bill. He is a friend of the education community and, without his leadership, we would not have a Department of Education bill before the Senate today.

Mr. President, one of our Nation's most eloquent spokesmen for education was our late colleague, Hubert Humphrey. In considering this historic legislation today, it is wise to recall Senator Humphrey's testimony to the Governmental Affairs Committee last year:

greater emphasis to those areas where Federal involvement is needed. I was particularly impressed by the endorsement of S. 991 by Dr. Sam H. Ingram, the commissioner of the Tennessee Department of Education. Dr. Ingram believes that having a single Department of Education in the Cabinet will improve the ability of each State to carry out its education policies in a unified, comprehensive manner.

Teh current Federal approach to education is fragmented and only adds to the problem instead of the solution. Public education remains one of the most important services that Government can provide for its citizens. It is, literally, an investment by each generation in the success of the next. A Department of Education is essential to keeping that promise. A Department of Education will give us the most bang for each education buck. It is a sensible and long-needed bill, and I urge its passage.●

Mr. METZENBAUM. Is the Senator from Connecticut prepared to yield the floor?

Mr. RIBICOFF. I have no choice. Other people want recognition, but the Senator from Ohio has been most indulgent. I personally do not dare, have the temerity, to ask for any more requests. It is up to the Senator from Ohio and other Members on the floor.

Mr. PERCY. I have just one remaining piece of business, Mr. President. I send to the desk a modification to my amendment 3409 and ask that it be printed in the Record at this time.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 3409

On page 48, strike out line 2.

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, line 10, strike out "section 203 (11)" and insert "section 203 (10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 50, strike out line 24.

On line 51, line 1, strike out "(6)" and insert "(5)".

On page 51, line 3, strike out "(7)" and in-insert "(6)".

On page 51, line 7, strike out "(8)" and insert "(7)".

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 40, in the table of contents, renumber items Sec. 210. through Sec. 316. as items Sec. 209. through Sec. 215. respectively.

On page 40, in the table of contents, strike out item "Sec. 302. Transfers of functions from the Department of Agriculture.".

On page 40, in the table of contents, renumber items Sec. 303. through Sec. 309. as items Sec. 302. through Sec. 308, respectively.

Mr. PERCY. I thank the distinguished Senator from Ohio for holding off so we could finish our business.

Mr. ROTH. Mr. President, I have two or three things I would like to take up.

Mr. METZENBAUM. If the Senator from Delaware will yield, is this on the Natural Gas Pricing Act?

Mr. ROTH. No, it is not.

Mr. METZENBAUM. The Senator from Ohio has sat back, patiently waiting, until a number of persons were heard in connection with the pending education matter. As the Senator from Delaware is aware, there is a priority understanding with respect to the Natural Gas Pricing Act. Without being disrespectful to him at this point, I would like to claim the floor in order that the last 50 minutes may be devoted to the Natural Gas Pricing Act debate.

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 55, strike out lines 12 through 23.

On page 56, line 3, strike out "Sec. 210." and insert "Sec. 209.".

On page 56, line 8, strike out "304," and insert "303,".

On page 56, line 16, strike out "Sec. 211." and insert "Sec. 210.".

On page 56, line 23, strike out "303" and insert "302".

On page 58, line 18, strike out "Sec. 212." and insert "Sec. 211.".

On page 59, line 6, strike out "305" and insert "304".

On page 59, line 11, strike out "Sec. 213." and insert "Sec. 212.".

On page 60, line 4, strike out "Sec. 214." and insert "Sec. 213.".

On page 60, line 12, strike out "Sec. 215." and insert "Sec. 214.".

On page 66, line 2, strike out "Sec. 216." and insert "Sec. 215.".

On page 74, strike out all beginning with line 14 through line 6 on page 75.

On page 75, line 9, strike out "Sec. 303." and insert Sec. 302.".

On page 76, line 3, strike out "Sec. 304." and insert "Sec. 303.".

On page 77, line 14, strike out "Sec. 305." and insert "Sec. 304.".

On page 78, line 12, strike out "Sec. 306." and insert "Sec. 305.".

On page 78, line 21, strike out "Sec. 307." and insert "Sec. 306.".

On page 79, line 3, strike out "Sec. 308." and insert "Sec. 307.".

On page 79, line 12, strike out "Sec. 309." and insert "Sec. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 40, in the table of contents, strike out item "Sec. 209. Office of Child Nutrition.".

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

Vol. 124 WASHINGTON, WEDNESDAY, SEPTEMBER 20, 1978 *No. 147*

Senate

(Legislative day of Wednesday, August 16, 1978)

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous-consent, now within the framework of the unanimous-consent agreement on the natural gas bill, that

and challenges include: A decline in student achievement and in the public confidence in the quality of education, unacceptably high rates of high school

Education is one of the Nation's largest businesses. Upwards of 65 million Americans are directly involved in education. Education is the Nation's second largest the Senate resume consideration of Calendar Order No. 1000, S. 991.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I welcome this opportunity to strongly urge my colleagues here in the Senate to give favorable consideration to the creation of a Cabinet-level Department of Education as part of the Federal reorganization of education functions.

The time for fundamental improvement of our broad educational system is now. While education will always be an area of American life in which local, State and private influence is predominant, there is a need for improving the Federal educational services designed to help overcome the major problems and difficult challenges facing our educational systems. Some of these problems dropouts and unemployed youth, and the isolation of educational institutions from family life and community services. I firmly believe that the establishment of a Department of Education will enable the Federal Government to effectively assist State, local, and private agencies to achieve higher standards of quality and to maximize existing Federal resources to serve special needs children and assure a wider degree of parent participation in the educational process.

Education is far too important to be scattered piecemeal among various governmental departments and agencies which are too often busy with other, sometimes dominant, concerns. Too often, State and local educational administrators, our constituents, go from agency to agency, piecing together a package of grants and approvals. They are continually snarled in the red-tape of Federal regulations, reporting requirements and the duplication of efforts. Finally, this is not only a waste of time, it is time taken away from the education of our Nation's children.

The result of our present system means that we have no effective Federal management. A Secretary of Education would convey to the American people and to the officials of the executive, legislative, and judicial branches of the Federal and State governments the importance that we as a nation place on education. But more importantly, consolidating education functions will provide a more efficient mechanism for the coordination of the numerous programs in a sensible, workable and effective framework.

fiscal commitment. What the schools do shapes society for generations.

The establishment of a Cabinet-level Department will improve the Federal Government's capacity to support the States and local communities in their efforts to provide an equal chance for quality education to all our citizens. This bill has my strong support, and I look forward to successful completion of this legislation at the earliest possible time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3409 (AS MODIFIED)

Mr. STEVENS. Mr. President I call up amendment No. 3409 (as modified) and ask for its consideration.

The ACTING PRESIDENT pro tempore. The clerk will report. Will the Senator please send the amendment to the desk. The clerk does not have the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), for Mr. Percy, Mr. Talmadge, Mr. McGovern, Mr. Dole, Mr. Abourezk, Mrs. Allen, Mr. Anderson, Mr. Baker, Mr. Bartlett, Mr. Bellmon, Mr. Bentsen, Mr. Brooke, Mr. Burdick, Mr. Cannon, Mr. Case, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Culver, Mr. Curtis, Mr. Danforth, Mr. Eagleton, Mr. Eastland, Mr. Ford, Mr. Goldwater, Mr. Hansen, Mr. Haskell, Mr. Paul G. Hatfield, Mr. Hayakawa, Mr. Helms, Mr. Hodges, Mr. Huddleston, Mrs. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Johnston, Mr. Kennedy, Mr. Leahy, Mr. Lugar, Mr. McIntyre, Mr. Melcher, Mr. Metzenbaum, Mr. Morgan, Mr. Nelson, Mr. Nunn, Mr. Proxmire, Mr. Riegle, Mr. Roth, Mr. Sarbanes, Mr. Schmitt, Mr. Sparkman, Mr. Stafford, Mr. Stennis, Mr. Stone, Mr. Thurmond, Mr. Tower, Mr. Wallop, Mr. Young, and Mr. Zorinsky proposes an amendment numbered 3409 (as modified).

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 48, strike out line 2.

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 60, line 4, strike out "Sec. 214." and insert "Sec. 213.".

On page 60, line 12, strike out "Sec. 215." and insert "Sec. 214."

On page 66, line 2, strike out "Sec. 216." and insert "Sec. 215.".

On page 74, strike out all beginning with line 14 through line 6 on page 75.

On page 75, line 9, strike out "Sec. 303." and insert "Sec. 302.".

On page 76, line 3, strike out "Sec. 304." and insert "Sec. 303.".

On page 77, line 14, strike out "Sec. 305." and insert "Sec. 304.".

On page 78, line 12, strike out "Sec. 306." and insert "Sec. 305.".

On page 78, line 21, strike out "Sec. 307." and insert "Sec. 306.".

On page 79, line 3, strike out "Sec. 308." and insert "Sec. 307.".

On page 79, line 12, strike out "Sec. 309." and insert "Sec. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 40, in the table of contents, strike out the following item:

"Sec. 209. Office of Child Nutrition.".

On page 40, in the table of contents, renumber items Sec. 210. through Sec. 216. as items Sec. 209. through Sec. 215., respectively.

On page 40, in the table of contents, strike out item

"Sec. 302. Transfers of functions from the Department of Agriculture.".

On page 40, in the table of contents, renumber items Sec. 303. through Sec. 309, as items Sec. 302. through Sec. 308, respectively.

Mr. STEVENS. Mr. President, have Senator Percy's changes and modifica-

half of low-income plaintiffs, resulted in the establishment of school lunch programs in Hartford, Connecticut; Bridgeport, Connecticut; Mount Vernon, New York; Cleveland, Ohio; and the State of Rhode Island, among others. In many of these areas, litigation would not have been required if state and local Boards of Education and education administrators had viewed the school food prgrams as integral parts of an educational environment."

FRACs testimony continues—

"In short, in the past, poor people have not been able to look to education administrators and policy makers to spearhead the need for school food programs. Instead, these administrators have often taken the position that such programs are expensive, administratively burdensome, and must take a distant backseat to other education priorities."

In addition to FRAC's testimony, The Children's Foundation testified that "it is completing a study on barriers to the implementation of the school breakfast program. The study is entitled "I'd Rather Go to Hell Than Run a Breakfast Program." This was the direct quote of a local school official. It is indicative of the view that many such officials have of these programs.

Second, the transfer will jeopardize the funding of the child nutrition programs. Since educators have not generally viewed nutrition programs as a vital part of the educational process, it is reasonable to assume that a Federal Department of Education would be no more responsive to the importance of such programs. When faced with budgetary constraints, these programs will be seen as expandable. This would be particularly true of those child nutrition programs with little or no connection to school systems, such as the summer food and day care feeding programs.

Third, USDA would still keep the research support vital to these programs. USDA is

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, line 10, strike out "section 203(11)" and insert "section 203(10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 50, strike out line 24.

On page 51, line 1, strike out "(6)" and insert "(5)".

On page 51, line 3, strike out "(7)" and insert "(6)".

On page 51, line 7, strike out "(8)" and insert "(7)".

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 55, strike out lines 12 through 23.

On page 56, line 3, strike out "Sec. 210." and insert "Sec. 209.".

On page 56, line 8, strike out "304," and insert "303,".

On page 56, line 16, strike out "Sec. 211." and insert "Sec. 210.".

On page 56, line 23, strike out "303" and insert "302".

On page 58, line 16, strike out "Sec. 212." and insert "Sec. 211.".

On page 59, line 6, strike out "305" and insert "304".

On page 59, line 11, strike out "Sec. 213." and insert "Sec. 212.".

tions in this amendment been incorporated in the version the clerk has at the desk?

The ACTING PRESIDENT pro tempore. The clerk indicates that they have. The clerk has the modified printing.

Mr. STEVENS. Senator Percy has asked me to call up his amendment. The purpose of his amendment would be to strike the proposed transfer of the child nutrition programs. He has outlined to the committee a number of sound reasons for keeping these programs in the U.S. Department of Agriculture.

I ask unanimous consent that the statement that Senator Percy would have made in support of his amendment if he were here be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement of Senator Percy

My amendment would strike the proposed transfer of the child nutrition programs. There are a number of sound reasons for keeping these programs in USDA.

First, a Department of Education will, as it should be, be dominated by educators. Educators have had a history of not placing high priority on the placement of these programs within the schools. In testimony received by the Committee, the Food Research and Action Center, a non-profit anti-hunger advocacy center, stated that—

"A good portion of our effort has been in the area of School Lunch and School Breakfast Program expansion. Time after time we have found that state and local Boards of Education have been at best uninterested, and at worst obstructionists, in this expansion effort. FRAC and/or Legal Services attorneys have brought numerous lawsuits seeking to expand school lunch programs in local areas. These lawsuits, brought on be-

increasing its research in both nutrition and agricultural economics. It would be counterproductive to remove the child nutrition programs from a Department that is presently equipped to do research in areas directly related to the improvement of these programs.

Fourth, although the Administration has pledged its continued support for the commodities aspect of these programs, this guarantee may become worthless several years down the road as the programs become dominated by educators. Moreover, we must not lose sight of one of the original reasons behind the creation of the school lunch program, which was commodity support. Instead of paying farmers not to grow crops, we are paying them for their surplus crops and using those surplus crops to feed undernourished children. This is a much more efficient use of taxpayers' money. As Senator Talmadge brought to our attention, "The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stability to those farm commodities that do not enjoy the protection of government price support programs."

Fifth, one approach to improving the quality of meals in these programs requires training food service personnel to procure and prepare food more effectively and economically. USDA has the expertise to accomplish this and is initiating activities in this area. A Department of Education is less likely to attack such a problem or to have the expertise to do so effectively.

Sixth, the transfer is opposed by a broad spectrum of groups, including agriculture groups, child-oriented public interest groups, nutritionists, and school food administrators. This grouping includes the American School Food Service Association, which is the largest national association representing people who direct, manage, and work in school nutrition programs at the State and local level. These groups have worked the closest with and are the most knowledgeable on the child nutrition programs.

Seventh, the President's Reorganization Project is presently conducting a study of the Federal nutrition effort. This study is not scheduled to be completed until next year. As a result, the transfer of these programs at this time would be premature.

Regarding nutrition education, I would again like to quote one of our witnesses, Mr. Hendrik Wentink of the Poultry and Egg Institute of America. He states:

". . . while nutrition education historically has nowhere received the emphasis it has deserved, it cannot be disputed that the USDA is exerting aggressive leadership in the area today. Secretary Bergland has formed a Human Nutrition Policy Committee to coordinate all USDA nutrition programs including food assistance, safety, quality research and education. Interim regulations to implement nutrition education grants to the states under the 1977 Child Nutrition Act amendments have been promulgated. The Department is conducting a novel nutrition awareness project which will test out a multimedia approach for issuing and reinforcing nutrition messages. Authority under recent aemndments of the National School Lunch Act to prohibit the sale of "junk food" in participating schools is being invoked. The focus of Extension activities is being expanded to reach urban areas more effectively. The very substantial Expanded Food & Nutrition Program within the Extension Service is developing a special program to emphasize nutrition counseling for food stamp users. And these are far from all the fronts of the USDA's nutrition education campaign."

It has been stated that the best place for nutrition education is in the schools. I agree. energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or departments; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture."

As I have shown, educators have a marked disinterest in nutrition education and in the school feeding programs. On the other hand, USDA has demonstrated great interest and enthusiasm. Transfer of these programs would not solve any problems, it would only create new ones. The child nutrition programs should and must remain in a broad-based Department of Agriculture.

SAVE THE DEPARTMENT OF AGRICULTURE

Mr. TALMADGE. Mr. President, I rise to support the amendment by my distinguished colleague from Illinois, Mr. PERCY. The child nutrition programs operated by this Government belong in, and should remain in, the U.S. Department of Agriculture.

All 18 members of the Committee on Agriculture, Nutrition, and Forestry endorse that concept. Fifty-nine Members of the Senate endorse that concept. The House Government Operations Committee endorses that concept. And one is finally led to wonder why we had to face this situation, when so few support the idea of transferring these programs to the new Department of Education?

The child nutrition programs are designed to achieve health, agricultural, and income maintenance objectives. The need to know how to purchase and prepare foods that contain proper nutrient levels, are appetizing, and are economical. To make progress toward these goals, school food service personnel need assistance in how to procure high quality food economically, how to process and prepare it, and how to store it so that nutrient values are retained.

School food personnel who are not skilled in procurement can end up with ground beef that has a high fat content, foods with high salt or sugar content, or other nutritional quality problems. In addition, schools can pay higher amounts than are necessary for food items.

To help school districts across the country do a better job is a major undertaking. The Department of Agriculture is taking on this task and has the necessary expertise to do so. A Department of Educaton is unlikely to have either the inclination or the expertise to get into this area.

In rural Georgia, a USDA expert has helped a nine-school district cooperative education service agency develop an integrated program of food procurement which allows school to purchase better food at a lower cost.

In Nashville, Tenn.; Fresno, Calif.; and southwestern Colorado; USDA specialists have acted as a catalyst in developing a system of direct purchases of fresh produce from local farmers. This has eliminated the extra charges of middlemen and improved the quality of the

But I also ask, if educators are so interested in nutrition education, why have they not instituted these programs in the schools? The answer, of course, is that they are not interested. In fact, they are so disinterested that they have actually promoted non-nutritious "junk foods" in the schools. In order to raise extra money, they have candy and soda machines in the schools. These junk food machines compete with the nutritious lunches served in the school cafeteria. Congress recognized this problem, a problem created by educators, last year when it mandated USDA to ban the sale of junk foods that compete with the school lunch program. USDA has responded to that mandate and that ban is going into effect this summer. How can we justify transfering these programs to a Department which will be dominated by such insensitive interests?

In conclusion, the question has been asked, "Where will these programs best operate and serve our nation's children?" The answer is that they will best operate and serve our children in USDA. As the former Ranking Minority Member of the Select Committee on Nutrition and Human Needs, I have watched with great satisfaction the growth of the child nutrition programs. Due to the work of the Nutrition Committee, we have come to understand that it is vitally important that our food, nutrition and agricultural policies be coordinated. As Senator Talmadge stated in a letter to the Committee, co-signed by the entire Senate Committee on Agriculture, Nutrition and Forestry, USDA is the best place for achieving maximum coordination. In the letter, he states:

"GAO in a recent report on nutrition research, found 'a lack of central focus and coordination' to be the number one barrier to progress in the area. We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national largest of these programs happen to operate primarily in the schools. The transfer of these programs to an education department seems to be predicated more on the fact that both child nutrition programs and traditional education programs are run through schools, than on potential benefits to child nutrition, education, or administration at any level of Government.

The legislative history of the National School Lunch Act of 1946 indicates that it was enacted to fulfill four objectives. Subsequent legislation expanding the program, or adding new programs, has reiterated the same objectives:

To safeguard the health and nutritional well-being of the Nation's children.

To provide a domestic outlet for commodities acquired through the Department's price support and surplus removal activities.

To promote good eating habits in children by exposing them to a variety of wholesome foods; and

To provide economic assistance to low income families.

Over the past year, the greatest single concern expressed about the child nutrition programs in the media has been the quality of meals served to children and the need to upgrade these meals. The very success or failure of the school food programs rest on the quality of meals.

When meals do not satisfy nutritional standards, or are thrown away rather than eaten, the basic purposes of the program are subverted and millions of dollars of Federal funds are wasted.

To serve quality school meals, schools food served to school children. These projects have also had significant nutrition education aspects, with farmers explaining food production in the classroom and children occasionally picking fresh produce at nearby farms. These projects show great future potential, and USDA is developing model projects for expansion. The projects help develop markets for family farmers at the same time that they improve lunches for children.

A primary reason why small, local food purchasers, such as school districts and hospitals, have had difficulty achieving the efficiency USDA has in large scale community operations is a lack of current price information and how to use that information.

Through the Market News Services of the Agricultural Marketing Service, USDA has been providing up-to-date price information to producers, processors, and wholesalers for years. Now, USDA has developed an information kit which explains to institutional food buyers how to take advantage of current price information to economize on food procurement. This project was a cooperative effort involving the Agricultural Marketing Service and the Food and Nutrition Service.

Another key area in child nutrition is the basic nutritional standards that USDA establishes for meals. These standards are based on nutrition research conducted by USDA's Science and Education Administration (SEA). The Department recently established a Human Nutrition Center within SEA as a focal point for research in this area.

The Food and Nutrition Service (FNS) works with SEA to design research that will provide information in determining the nutritional standards needed in these programs and to test specific proposals for alterations in meal patterns used in the programs.

Recently, FNS proposed the most major changes in the school lunch meal pattern since the passage of the National School Lunch Act in 1946. These proposals were based on several years of work by SEA. Plans are now in final stages for field tests in hundreds of schools of these and other changes in the meal patterns. USDA's Economics, Statistics, and Cooperatives Service (ESCS) is playing a major role in designing and developing these field tests, which will carefully analyze both economic and nutritional impacts of the proposed change.

In addition, SEA, FNS, and ESCS are also working together to mount major nutritional evaluations of the child nutrition programs. The National Food Consumption Survey, conducted by SEA, is collecting information on participation in child nutrition programs and its nutritional impact. SEA is now discussing plans with FNS and ESCS for a major, multiyear nutritional evaluation of the school lunch program, and has been provided funds by Congress for this purpose.

Elsewhere in SEA, the Human Nutrition Center is conducting research into such areas as the importance of trace minerals in the diets of children—research that is also vital to, and coordi-

ties purchased at market prices when surpluses have been exhausted.

USDA is able to serve a dual objective—both to support the agricultural economy and to provide nutritious food items to schools and other institutions that care for children.

Even during periods of surplus, USDA supplements the surpluses with purchases of other, nonsurplus commodities that schools need. Such a balanced approach would be difficult to work out with a split jurisdiction on which USDA procures and ships commodities but a Department of Education administers the programs where the commodities are used.

Two particular problems would be likely to arise as a result of a transfer. Housing these programs in a Department of Education could lead to an emphasis on providing more in the way of cash subsidies and less in commodities, with possible adverse effects on agricultural producers. At the same time, a transfer could lead to adverse effects on the types and variety of those commodities that would still be provided to schools.

There is now a balance in the Department's commodity purchase decisions between serving the needs of schools and moving surplus agricultural products.

The reason generally given for moving the child nutrition programs to a Department of Education is to facilitate educational administration at the State and local level. Upon close exami-

trade-offs, Federal education administrators might sacrifice child nutrition efforts.

Successful food service is usually found in schools where administrators view the child nutrition programs as an integral part of the education program, while poor quality food service is frequently found in schools where child nutrition programs are viewed as ancillary to the education program.

Some States are contemplating the shifting of responsibility for the administration of such programs out of State education departments, and Texas has already announced plans for such a move.

Moving the child nutrition programs to a Department of Education would place the programs in an organization which is not concerned with the formulation or execution of nutrition policy; and second, it would whittle away at the total array of interests competing within the Department of Agriculture.

Overall, there is little real gain from moving child nutrition programs to an Education Department. There is risk of substantial loss, however, from such a move. The linkages with human nutrition research, food and consumer economics, agricultural impact studies, food specification writing, and food inspection in USDA would all be lost. Program operation and commodity purchases would be split, thus making the commodity operation more susceptible to pressures nated with, the operation of child nutrition programs.

Finally, to help assure that the best quality food is provided with the available resources, ESCS is now involved in 16 major studies concerning FNS food assistance programs. Most of these studies are concentrated in the child nutrition area. ESCS is now conducting studies on the proper level of both food and administrative reimbursements for the summer food program, and on related questions of food quality and food prices and profit margins by private vendors in the summer program.

ESCS has designed an array of studies on the nutritional, economic, administrative, and agricultural impacts of providing cash in lieu of commodities to school districts and is involved in the field tests of changes in school meal patterns. Most of these studies cut across several disciplines—from nutritional to agricultural economics—and it is not likely they could be adequately handled by a Department of Education.

In the foreseeable future, the Federal Government will come into possession of increasing stores of surplus agricultural commodities. A Department of Education would have no particular concern with the use of the child nutrition programs as a domestic outlet for surplus commodities.

The existence of agricultural stabilization and children nutrition programs within USDA permits the development of an integrated food and nutrition policy that used surpluses when they exist, and maintains the necessary framework for this function by providing commodi-

nation, this contention turns out to be weak.

Commodities would still come from USDA. States would have to deal with two Federal Departments in the operation of food service programs, not one.

The uniformity of Federal program requirements directed through Treasury and OMB circulars, plus integration that has already occurred between FNS and the Office of Education, means that little additional administrative simplification could take place. The particular records and administrative requirements in the child nutrition programs stem from the distinct reimbursement structures carefully constructed for these programs by Congress over the past 30 years. By and large, the same records would still have to be kept. They would simply be submitted by the State to a Department of Education rather than to USDA.

Transfer of these programs to an education department offers no significant opportunities for long-range reduction in administrative costs and burdens at Federal, State, or local levels.

The short-term disruption caused by transfer would be an added cost. Where opportunities exist for reducing administrative costs by integrating FNS and Office of Education activities, integration now takes place.

While a transfer would not accomplish much in the administrative area, it could seriously jeopardize the strength and well-being of the child nutrition programs.

Among educators, child nutrition programs are often perceived as an expendable service to education. Faced with budgetary constraints and the need for

to act largely as a surplus removal operation.

The new Education Department would have little ability to work with States and school districts to buy more economically, to purchase cooperatively, to enter into direct marketing arrangements with farmers, or to make high quality nutritional purchases.

On February 28 of this year the Committee on Agriculture, Nutrition, and Forestry unanimously reported to the Senate a simple resolution calling for the maintenance of a strong and independent Department of Agriculture.

A hold was placed on that resolution so that the Senate could not consider it.

I am not one to go about looking for conspiracies, but I am led to wonder whether there are not those in Congress and elsewhere who look forward to the demise of USDA through a whittling away of functions, using Federal reorganization and efficiency as an excuse.

While some attempt to take child nutrition away from the Department, others are making blatant and public attempts to steal the natural resource functions of USDA, partially through discrediting outstanding public servants, such as the Chief of the Forest Service, in the press.

Others having been moving stealthily to capture the rural development functions of the Department.

I can understand their avarice. Since I have been chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I have always sought to make the USDA a broad-based Department that represents farmers, consumers, and city dwellers.

The USDA is conservatively operated.

its agencies rank among the best insofar as Federal employee productivity is concerned. Agriculture's share of the Federal budget has declined sharply over the past decade, to only about 3 percent of the Federal budget. Only $6 billion of the funds for the Department of Agriculture are for agricultural programs, while $8.6 billion are for food and nutrition programs. This means that just 1.2 percent of the 1978 Federal budget was earmarked for the support of agricultural programs.

I am not so much concerned about the declining share of the Federal budget for agriculture, because this decline is a tribute to agriculture's success in meeting its obligations.

My distinguished colleague from South Dakota, Mr. McGovern, made an outstanding statement about Federal reorganization as it impacts on the Department of Agriculture, on February 8 of this year, when he introduced, with Senator Dole, S. 2519. I ask that this statement be included in the Record at this point:

> It seems to me that it might be well to examine this reorganization process as it has been set up, to see what kinds of conclusions might be reached.
>
> First of all it has been established on a functional or incremental basis, which presumes that like kinds of activities ought to be lumped together so as to avoid duplication of effort.
>
> What concerns me about this presumption is that certain agencies are multifaceted in their activities. For instance, the Department of Agriculture manages and conserves of Transportation and the Department of Housing and Urban Development, then we have learned nothing. There remain large chunks of Government activity dealing with housing and transportation which remain outside the jurisdiction of both of these agencies, and that is why Senator McGovern's statement is so compelling.

The taxpayers are not telling us to move the organization boxes around in an exercise of managerial hokus-pokus. They want the Government to be leaner and more effective. They want it to spend less money and employ fewer people.

In transferring the child nutrition programs to an education department, the opportunities for reductions in cost or administrative burdens in accounting requirements are virtually nonexistent. The accounting manuals used at the local level for both FNS and Office of Education programs were developed by the same accounting firm, with the specific aim of making accounting procedures in both agencies' programs compatible. Differences in these accounting procedures reflect the differences between food service and other educational services. In addition, OMB Circular A-102 sets general standards on Federal accounting requirements for all Federal grain-in-aid programs.

Therefore, the proposal to move the nutrition programs will save the taxpayers not one thin dime, while the cost of the transfer will be substantial.

But, as I said, the piecemeal dismantling of USDA is the broader issue. I for ment which would control some 164 or so education programs scattered among the Government, with a budget of $17.5 billion and a staff of some 23,000 persons. This new Department would include the higher education programs outside DHEW's Education Division, the overseas Defense Department schools, the Bureau of Indian Affairs schools, and the USDA child nutrition and nutrition education programs. We are all too familiar with the major arguments for a new Department:

A new department would give education more budgetary clout.

A new Department would eliminate scattering of the over 300 education programs in some 40 Federal agencies, and provide the basis for a national educational policy.

A new Department would provide prestige to an educational entity that encompasses nearly one-third of the population as either students, teachers, or administrators and who deserve representation at the cabinet level.

Of course the justification for the transfer of the child nutrition programs is that they would bring a $3 billion budget base to this new Department.

The merits of a new Department of Education were never the issue with the Senate Agriculture Committee. However, we have gone on record on more than one occasion to oppose the transfer of the child nutrition programs, including the training and nutrition education support services.

national forest lands. This management is tied intimately to national wood and fiber policy on private lands. Most of the private forest lands are held by farmers, whose land is also the base from which we get our food. These private lands are protected through the policies of the Soil Conservation Service. Farm income is protected by the Farmers Home Administration and the Agricultural Stabilization and Conservation Service, as well as other USDA agencies. Various shifts in farm and forestry economies, such as the pitifully low prices farmers are now receiving, having a decided impact on the economies of rural towns, which leads naturally into the department's rural development efforts.

Like the facets on a diamond ring, these functions are irrevocably tied together into a related package of Federal efforts that serve rural America.

The second question that a functional approach to reorganization raises is the desirability of competition between agencies. General Motors, which I think we will agree has had some business success, is organized along competitive lines. The Oldsmobile Division competes with the Buick Division, which competes with the Chevrolet Division, for customers of automobiles. This organizational success, and others like it, would seem to indicate that—while there is a definite need to streamline the Government and eliminate excessive overlap of functions—there is something to be said for having agencies compete with one another. A merging of agencies on a purely functional basis could certainly lead to departmental complacency and bureaucratic laxity. If you have the only store in town, it is easy to forget about customer service.

There is no way to make successful a functional reorganization of the Government; if we have not learned that, as a result of the creation of the Department one do not intend to sit idly by while this raid on USDA is being conducted by people who do not even know how to spell "farm." I am appalled that certain persons in the executive branch and Congress are literally falling all over themselves to see how many functions they can yank out of USDA.

Mr. President, I call on my colleagues in the Senate to vote for the Percy amendment. I call on my colleagues to save the Department of Agriculture.

CHILD NUTRITION PROGRAMS AND NEW DEPARTMENT OF EDUCATION

● Mr. DOLE. Mr. President, today a bill to establish a new Department of Education (S. 991) has come to the floor, calling for reorganizing a number of existing Federal programs to form a basis for this new Department. The idea of Government reorganization is not new: The record shows that nearly 100 reorganization plans affecting some 240 departments and agencies were submitted by Presidents between 1939 and 1968.

The idea of stripping the child nutrition programs from the Department of Agriculture to provide a basis for this reorganization is new, however. As one of the early cosponsors of Senator PERCY's amendment to oppose this transfer, I would like to say a few words in support of the courageous stand taken by the distinguished Senator from Illinois.

A BIT OF HISTORY

We are all quite familiar with ths issue, but a bit of recent history is in order. Last April 14 the President asked Congress to create a Cabinet-level Depart-

AGRICULTURE COMMITTEE OPPOSES TRANSFER

Mr. President, on several earlier occasions I joined with the other 17 Members of the Senate Agriculture Committee and denounced the child nutrition transfer proposal. We held many serious reservations about such a move:

First, why education at this time? Why not wait until Congress is ready to overhaul the health and welfare programs?

Second, why strip the child nutrition programs from agriculture at a time when it is becoming increasingly clear that food, agriculture and nutrition are interrelated? As ranking minority member of the Senate Nutrition Subcommittee I am more and more convinced that agriculture and nutrition must be brought into closer coordination.

Third, why pull school meals from the several basic components of the Department of Agriculture which have contributed to their development and expansion; such as the wholesome agricultural products of the commodity distribution program, our national land-grant system of education and research assistance, the human nutrition research laboratories, and of course the nutrition information and education services? All these key elements of the Department have been instrumental in the advancement of school meals since the inception of the National School Lunch Act of 1946.

Fourth, why interrupt our efforts toward policy development? We cannot successfully develop a new food, farm, and nutrition policy with programs fragmented all over the executive branch of Government.

Fifth, why cut back on USDA's broad base? The scope of the Department of Agriculture must remain broad and diversified if the Department is to serve its constituents better.

Next, why be shortsighted? The administration has obviously overlooked the "separation of powers" concept; too little regard is being paid to the importance of the education committees in both the House and the Senate in the whole reorganization process.

And finally, why ignore American politics? There has been too little attention given to our political system. Increased rationality has been given as the desirable and attainable objective but proponents ignored the political aspects of education which must be at least acknowledged if the reorganization is to have either initial or long-term success.

AGRICULTURE COMMITTEE OPPOSES SPLIT

Mr. President, the administration has not stopped with the child nutrition meal programs. In recent weeks the administration has been desperately working toward a fall-back position; namely the separation of these school meal programs from the "training and nutrition education program" (Sec. 19, Public Law 95–166)—the $26 million annual education and training support services designed to upgrade the quality of meals at school.

True, $26 million is only a fraction of the $3 billion child nutrition program budget, but the separation of the education and training program from the feeding program is an ill-thought-out move for several reasons: meals is well-documented. Results of the only national profile of school food service personnel (a sample of 23,000 schools and 8,500 personnel) issued in February 1977 definitely highlights the need for training of school cafeteria personnel. Survey findings revealed that:

Better than 6 out of 10 workers were promoted or hired as managers without prior training;

Only 3 out of 10 school cafeteria workers completed training in the last 10 years;

Principal reasons for wanting training were to: improve job performance, increase knowledge, learn new food service techniques;

Forty-four percent of the respondents indicated a desire for more training. Mr. President, these grim statistics speak for themselves.

MANY SUPPORTERS OPPOSE TRANSFER

Mr. President, in conclusion, let me remind my colleagues that at last count some 3 dozen organizations had rallied behind the drive to oppose the transfer of any child nutrition program from the Department of Agriculture. They represent thousands of nutrition and health professionals, consumers and consumer groups, farm commodity organizations, and the like. I ask that this list of organizations be printed in the Record.

Let me hasten to add that this organizational support is in addition to the 60 cosponsors of the amendment (including all members of Senate Agriculture Com-

31. National Dried Bean Council.
32. Peanut Growers of Alabama and Georgia.
33. United Egg Producers.
34. American Farm Bureau Federation.

Mr. STEVENS. I would state that I think he has made a good case for maintaining these child nutrition programs in the Department of Agriculture.

Mr. CHILES. Mr. President, I concur in the remarks of the Senator from Alaska. On behalf of Senator Ribicoff, I request that the Percy amendment be accepted by unanimous consent.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing none, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE subsequently said: Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TALMADGE. Has a motion to reconsider been made and tabled on the so-called Percy amendment?

The ACTING PRESIDENT pro tempore. It has.

Mr. TALMADGE. I thank the Chair, and I appreciate the courtesy of my distinguished friends from Florida and Alaska giving me this privilege.

First, Congress reason for legislating a companion education and training component to address growing allegations of stagnant participation rates, inferior food quality, and resultant food and beverage waste in the school meals.

Our intent for this State grant program was to strengthen, support, and even enhance school meal service, and rid the program of these allegations of taxpayer waste. Thus the emphasis on training school cafeteria personnel to put a better meal on the table, and preparing students to better accept that meal.

Second, these education funds are to be used to provide workshops and other training sessions for school cafeteria personnel on the production and service of high quality and nutritious meals; as well as instruct students about diet and its relationship to good health, and develop a core of teachers to do this instruction.

The "purpose" of this grant program as outlined in Public Law 95–166 makes clear that the training and education provision was designed to encourage effective dissemination of information to children "participating or eligible to participate in the school lunch and related child nutrition programs". It goes on to make clear that "such nutrition education programs shall fully use as a learning laboratory in the school lunch and child nutrition programs". Throughout the legislation the emphasis is school-cafeteria-based education and training.

Mr. President, the need for an education and training program to save school mittee) to oppose the transfer introduced by the distinguished Senator from Illinois.

The list follows:

Organizations Opposing the Transfer of Any of the Child Nutrition Programs From the Department of Agriculture to a New Department of Education

1. American Home Economics Association.
2. The Children's Foundation.
3. American School Food Service Association.
4. Department of Health, City of Detroit.
5. Society of Nutrition Education.
6. Department of Public Health, Commonwealth of Massachusetts.
7. Center for Science in the Public Interest.
8. National Fisheries Institute.
9. County of Bergen, New Jersey, Department of Health.
10. The National Grange.
11. Healthy America, Inc.
12. Director of Food Service, Harlem, Illinois, Public School.
13. Center of Community Change.
14. National Association of Counties.
15. Mid-Continent Farmers Association.
16. National Council of Farmers Cooperatives.
17. National Milk Producers Federation.
18. National Farmers Union.
19. Food Research and Action Center.
20. Community Nutrition Institute.
21. National Rural Electric Cooperative Association.
22. Poultry and Egg Institute of America.
23. National Cattlemen's Association.
24. National Turkey Federation.
25. Amalgamated Meat Cutters and Butcher Workmen (AFL–CIO).
26. American Academy of Pediatrics.
27. Congress Watch.
28. Consumer Federation of America.
29. Council for Responsible Nutrition.
30. National Broiler Council.

UP AMENDMENT NO. 1854

(Purpose: To redesignate the Department of Health, Education, and Welfare as the Department of Health and Human Services)

Mr. CHILES. Mr. President, I send to the desk a Humphrey amendment to redesignate the Department of Health, Education, and Welfare as the Department of Health and Human Services, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for Mrs. HUMPHREY proposes an unprinted amendment numbered 1854.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 67, line 17, strike out "Welfare" and insert "Human Services".

On page 106, line 20, strike out "Welfare" and insert "Human Services".

On page 107, line 2, strike out "WELFARE" and insert "HUMAN SERVICES".

On page 107, line 4, strike out "Welfare" and insert "Human Services".

On page 107, line 5, strike out "welfare" and insert "human services".

On page 110, line 5, strike out "Welfare" and insert "Human Services".

Page 111, line 16, strike out "Welfare" and insert "Human Services".

On page 111, line 21, strike out "Welfare" and insert "Human Services".

On page 112, line 2, strike out "Welfare" and insert "Human Services".

On page 112, line 8, strike out "Welfare" and insert "Human Services".

On page 112, line 21, strike out "Welfare" and insert "Human Services".

On page 113, line 4, strike out "Welfare" and insert "Human Services".

On page 113, line 6, strike out "Welfare" and insert "Human Services".

On page 113, line 13, strike out "Welfare" and insert "Human Services".

On page 113, line 14, strike out "Welfare" and insert "Human Services".

On page 113, line 15, strike out "Welfare" and insert "Human Services".

Mr. CHILES. Mr. President, I ask unanimous consent that a statement by Mrs. HUMPHREY be printed in the RECORD prior to the passage of the amendment by Mrs. HUMPHREY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Mrs. Humphrey

S. 991 is a bill of great importance to the children of this country and to the future of this Nation. Education is one of the most important aspects of our lives and will continue to become increasingly more important as we address the social, economic, and technological problems that this country faces. Education is the key to conquering these problems and the key to fulfilling the dreams and aspirations of our citizens.

I strongly support this legislation to create a cabinet-level Department of Education. This bill will consolidate the more than 300 educational programs scattered among nearly 40 agencies. It will improve coordination of Federal education programs and help remedy their confusing, fragmented network.

Through this consolidation, we can pinpoint more nearly the problems in educa-

related service programs in the Department of Health and Welfare.

I should like to emphasize that my amendment to transfer vocational rehabilitation to the Department of Education should in no way be interpreted to denigrate the importance of the medical and social aspects of rehabilitation. Medical services and research have been in the forefront of the rehabilitation movement and should continue to have the highest priority of RSA, particularly the medical research and training centers. The professional training program of RSA is the only program which supports the training of physicians in rehabilitation medicine, a field of extreme shortage. It should be continued and expanded also.

In closing, let me make two additional points. First, in developing an agency of this nature, some may question if the Federal government is becoming too embroiled in an area that has traditionally been the responsibility of local and state authorities. I believe that this department will not necessarily further involve the Federal government, but will improve its current involvement. Education nationwide must be a shared Federal-State-local responsibility if we are to provide the kind of quality education our children deserve. As costs increase, this responsibility becomes an awesome task that requires cooperation and improved coordination among all parties involved. Only in this manner can we hope to meet tomorrow's educational needs today.

Second, Mr. President, as the bottom line, we should evaluate this legislation on the basis of whether or not it enhances the educational opportunity of the student. I believe it does and urge my colleagues to support the bill.

Mr. CHILES. Mr. President, I believe this amendment has been cleared on

The Senator from Florida (Mr. CHILES), for Mr. ROTH, proposes an unprinted amendment numbered 1855.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 10 and 11, insert the following new section:

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. Notwithstanding any other provision of this

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1978, and ending September 30, 1979, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within 120 days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the

tion today. We can address more effectively the educational needs of special children, which for too long have received a totally inadequate response—including the mentally or physically handicapped child.

Most importantly, the bill reaffirms our commitment to a sound educational system. We need a highly visible, high-ranking Federal official who can be held accountable for the successes and failures of our Federal education programs, who can be an effective manager and who can be a strong advocate for education. By creating the position of Secretary of Education, this bill fulfills those needs.

I was pleased to offer an amendment to this bill in Committee to transfer vocational rehabilitation programs from HEW to the Department of Education, to create an Assistant Secretary for and an office of Special Education and Rehabilitative Services. My amendment was adopted by voice vote.

There are overwhelming advantages to this transfer. First, the effectiveness of the Education for All Handicapped Children Act will be enhanced. Closer relationships between this program and vocational rehabilitation will improve the exchange of expertise and technology between the programs.

Second, better coordination between these programs will facilitate the development of more comprehensive approaches to preparing handicapped young people to make the transition from secondary education to work.

Third, leaving vocational rehabilitation in a Department of Health and Welfare will heighten concern in the handicapped community that efforts will be made to reorient vocational rehabilitation along a welfare line by making eligibility for services contingent on income.

This transfer would open the opportunity for developing new and broader roles for rehabilitation services which is distinct from welfare. It would also protect the program more from attempts to consolidate it with general social services and the welfare-both sides, but I will yield to the Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. It is my understanding that this amendment of Senator HUMPHREY's has been agreed to. It seems to be appropriate to make that change in the portion of the Department of Health, Education, and Welfare which will remain after this bill becomes law.

Mr. CHILES. We are ready to vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1855

(Purpose: To require the Congress to prescribe for the Department for each fiscal year an end strength for personnel)

Mr. CHILES. Mr. President, I send to the desk an amendment sponsored by Senator ROTH to require Congress to prescribe for the Department for each year an end strength for personnel, and I move that it be accepted, along with his introductory statement, by unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

offices and agencies of the Department. Such report shall include expanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(h)(1) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, he may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 percent of the number authorised under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within 120 days after the effective date of this Act.

On page 40, in the table of contents, insert immediately after item Sec. 402, the following:

Sec. 403. Annual authorization of personnel.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, if Mr. ROTH were here today, he would have made a statement on behalf of this amendment. It is my understanding that this amendment will add a new section under title IV of the bill which would place a staff ceiling on the new department. The amendment includes a 1-percent leeway in current staff estimates for the department to allow for flexibility in staffing requirements.

Mr. President, I ask unanimous consent that the complete statement Senator ROTH would have delivered be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR ROTH

The amendment I am proposing to S. 991, a bill to create a separate Department of Education is a simple one. My amendment would add a new section to the bill under Title IV which would place a staff ceiling on the new department. My amendment includes 1 percent leeway in current staff estimates for the Department to allow for flexibility in staffing requirements. However, I do feel that a ceiling is necessary to exercise some Congressional control over the burgeoning bureaucracy. The Governmental Affairs Committee in considering this bill did not anticipate any staff additions outside of the executive positions newly authorized in the bill. One of the major criticisms of creating a new department of education has been the fear that in its authorization Congress is beefing up a bureaucracy which is already bloated and straining an overtaxed budget. I feel we must be responsive to this concern. We need to emphasize that cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the federal involvement in the educational process. This amendment is not without precedent. Language is incorporated into the authorization for the Department of Defense's civilian staff to place a ceiling annually on these personnel levels. I submit for the RECORD at this time a table showing total Federal Civilian Employment for the Month of June covering a five year period from 1973 to 1978.

The table follows:

TOTAL FEDERAL CIVILIAN EMPLOYMENT FOR JUNE 30, SELECTED YEARS, ALL AREAS (INCLUDES CEILING AND NONCEILING)

	1973	1974	1975	1976	1977	1978
Total, all branches	2,824,242	2,893,119	2,896,944	2,883,134	2,893,334	2,937,214
Executive branch, total	2,780,574	2,847,971	2,848,914	2,832,641	2,840,148	2,882,661
Executive Office of President	4,805	5,751	1,918	1,889	1,836	1,627
Executive departments	1,697,347	1,746,682	1,736,872	1,733,457	1,749,392	1,784,591
State	34,523	33,396	30,376	30,457	30,578	30,502
Treasury	108,036	116,213	121,546	125,600	127,321	131,243
Department of Defense	1,052,639	1,070,004	1,041,829	1,010,261	1,008,690	1,007,092
Justice	47,709	50,531	51,541	53,982	53,259	55,241
Interior	74,146	76,919	80,198	81,844	87,437	83,696
Agriculture	113,313	116,203	120,999	128,052	131,756	138,303
Commerce	34,884	35,758	35,228	37,569	39,661	41,580
Labor	14,049	14,487	14,834	16,730	17,096	21,896
Health, Education, and Welfare	128,417	142,159	147,125	155,096	159,469	161,050
Housing and Urban Development	18,249	17,274	17,161	16,579	17,948	17,928
Transportation	71,382	73,737	75,035	77,287	76,177	76,037
Energy						20,024
Independent agencies	1,078,422	1,094,638	1,109,224	1,097,295	1,088,920	1,096,443
Post Office	697,932	707,202	699,174	675,653	658,390	651,090
Veterans' Administration	198,421	202,361	213,143	222,313	224,178	230,760

It is interesting to note from this chart that the most dramatic decreases in federal

amendment of the Senator from Delaware.

civilian employment over the 5-year period are in the Department of Defense. It is also interesting to note that language placing a ceiling on federal civilian employment for the Department of Defense was introduced in 1973.

My amendment does not set an exact numerical ceiling for the transition year but provides for the sum of the number of the new personnel authorized in S. 991 and the number of personnel determined by the Office of Management and Budget to be transferred to the new Department on the effective date of the act. Because of the uncertainty of the transfer of some personnel whose functions may have been divided in the current Department of Health Education and Welfare, it has not been possible for the Office of Management and Budget to give an exact numerical requirement. However, they have estimated the figure of personnel for the Department to be approximately 24,700. My amendment will require the Secretary of the Department of Education to report to the Congress within 120 days after the effective date of the Act the exact number of the end strength for personnel for the fiscal year beginning October 1, 1978 and ending September 30, 1979. It is my understandihg that this language is acceptable to my esteemed colleague Senator Ribicoff and there will be every conscientious effort made to establish a ceiling at the lowest possible level. This ceiling would then be reviewed and established annually through Congressional action. I move for the adoption of my amendment.

Mr. STEVENS. It is my understanding that both the majority and minority of the committee are prepared to accept the amendment.

Mr. CHILES. That is correct.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection it is so ordered.

Mr. ROBERT C. BYRD. The Chair is in great form today. I like that baritone voice.

I ask unanimous consent, Mr. President, that on an amendment to the Department of Education bill by Mr. HAYAKAWA, there be a 2-hour limitation, to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 11:40 a.m., recessed until 12:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, the Senate is presently awaiting the arrival of Mr. SCHMITT of New Mexico who, I understand, has been conducting a hearing and who has an amendment or some amendments to the Department of Education bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. SCHMITT has—three?

Mr. STEVENS. I believe he has three amendments, but whatever he has he will offer today, as I understand.

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of the amendments by Mr. SCHMITT to the Department of Education bill, that bill then be set aside with the following time agreement thereon:

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader and other Senators.

It is hoped that upon the disposition of the amendments by Mr. SCHMITT the Senate can go to the vocational rehabilitation bill and work on that during the afternoon, and also during the afternoon, that the Senate can take up the New York City appropriations matter.

It would be the intention of the leadership, once Mr. SCHMITT's amendments are disposed of today, to lay the Department of Education bill aside temporarily and go to the other measures I have mentioned.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

TIME-LIMITATION AGREEMENTS—S. 991

Mr. ROBERT C. BYRD. Mr. President, with further regard to the agreement on the Department of Education bill, I ask unanimous consent with regard to Mr. HAYAKAWA, who may want to move to recommit the bill, that there be a 1 hour limitation on the motion to recommit, the 1 hour time limitation to his designee. I make that request if it is not agreed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate resumes consideration of S. 991 (Order No. 1000), a bill to establish a Department of Education, and for other purposes, the Senator from New Mexico (Mr. Schmitt) is recognized to call up amendments No. 3620, 3621, or 3619 in any order, on each of which there shall be 1½ hours, to be divided and controlled with 1 hour to the Senator from New Mexico (Mr. Schmitt) and ½ hour to the Senator from Connecticut (Mr. Ribicoff), and with no tabling motion to be in order on amendment No. 3619.

Ordered further, That after the disposition of the Schmitt amendments, the Senator from Alaska (Mr. Stevens) be recognized to call up an amendment on which there shall be 80 minutes, to be equally divided and controlled by the mover of such and the manager of the bill.

Ordered further, That after the disposition of the Stevens amendment, the Senator from California (Mr. Hayakawa) to recognized to call up an amendment on which there shall be 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill.

Ordered further, That after the disposition of the Hayakawa amendment, the Senator from North Carolina (Mr. Helms) be recognized to call up an amendment on which there shall be 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill.

Ordered further, That after the disposition of the Helms amendment, the Senate pro-

That there be 1 hour on the bill itself, to be equally divided between and controlled by Mr. Ribicoff and Mr. Percy;

That there be a 2-hour limitation on an amendment by Mr. Helms, to be equally divided and controlled in accordance with the usual form; that when the Senate resumes the consideration of the Department of Education bill, following the disposition of the amendments by Mr. Stevens——

Mr. STEVENS. We have an agreement of 40 minutes to each side.

Mr. ROBERT C. BYRD. On which there is a time limit already, there be one amendment by Mr. Hayakawa, on which there is already a time limitation.

Mr. STEVENS. No——

Mr. ROBERT C. BYRD. Of 2 hours.

Mr. STEVENS. Oh, yes, 2 hours.

Mr. ROBERT C. BYRD. That there be one amendment by Mr. Hayakawa, on which there be a time limitation of 2 hours; and that upon the disposition of those amendments the bill be advanced to third reading, without further amendments or motions, appeals, or points of order to be in order.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I would ask only that the majority leader modify that to permit a motion to recommit should one be made.

Mr. ROBERT C. BYRD. Very well, I so modify the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. That protects them both ways.

be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on amendment No. 3620 by Mr. Schmitt, amendment No. 3621 by Mr. Schmitt, and amendment No. 3619 by Mr. Schmitt, there be a time limitation on each as follows: One hour under the control of Mr. Schmitt and 30 minutes under the control of Mr. Ribicoff; provided further that on amendment No. 3619, any tabling motion be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is that all satisfactory to the distinguished Senator from New Mexico?

Mr. SCHMITT. Mr. President, if the Senator will yield, I thank him and the distinguished majority whip for their effort in this matter. It is a perfectly satisfactory agreement and I hope that within the next week, when the bill is finally disposed of, it will be done expeditiously and, of course, favorably on my side.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. There is no agreement as to when the majority leader will call up the bill, but it is the understanding that it will not be this week?

Mr. ROBERT C. BYRD. The understandings, I believe, when the order was entered, that the majority leader will call it up at a future time after consultation with the minority leader or

ceed to third reading of the bill, without any further amendment, motion, appeal, or point or order being in order, except a motion to recommit to be offered by the Senator from California (Mr. Hayakawa), on which there shall be 1 hour.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Connecticut (Mr. Ribicoff) and the Senator from Illinois (Mr. Percy).

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

Vol. 124 WASHINGTON, THURSDAY, SEPTEMBER 28, 1978 No. 154

Senate

(Legislative day of Tuesday, September 26, 1978)

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill (S. 991).

Mr. ROBERT C. BYRD. At this time, Mr. President, I ask that the Senate resume its consideration of the Department of Education bill. In accordance with the order previously entered, Mr. President, I was to consult with the distinguished minority leader.

Mr. STEVENS. I may state I have discussed this with the distinguished minority leader and we are prepared to proceed in accordance with the majority leader's wish on this matter.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

Mr. STEVENS. Mr. President, may I inquire? There were orders entered into. It is my understanding the Senator from New Mexico (Mr. Schmitt) was to call up three amendments under controlled time, and after that my amendment was to be subject to debate and to a vote. It is my understanding that the Senator from North Carolina has a noncontroversial amendment we may wish to consider first. Is that correct?

Mr. RIBICOFF. He is not here. I would like to have the opportunity to look at it. If it is the same amendment we saw last week, we would accept it.

Mr. STEVENS. Is the Senator from New Mexico prepared to present his amendments at this time?

Mr. SCHMITT. I am prepared to present my amendments. I would ask to make an opening statement on the bill, if that is agreeable. It will be short.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I certainly have no objection. If the Senator would allow me, I would like to make a very brief statement.

It is my hope that the Senate will complete action on this bill today.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. SCHMITT. Mr. President, while we are getting organized, I will ask the distinguished Senator from Alaska if he wishes to proceed to his amendment. I understand he is under some specific time constraint. I would be happy to present my opening statement and then lay my amendment aside until his amendment is dispensed with.

Mr. STEVENS. I would be happy to do it after the Senator from New Mexico presents his first amendment. I would be very appreciative if the Senator from New Mexico would permit me to call up my amendment so that the vote will take place before 7 o'clock because we do have a markup at 7 o'clock, which I must attend. So any time we can call up the matter before 7 o'clock and have the vote before 7 o'clock, I would appreciate it.

Mr. SCHMITT. Then we will proceed to the first Schmitt amendment with the understanding that the amendment of the Senator from Alaska will be next. I would presume that will take unanimous consent, which I am sure the Senate will grant.

Mr. HAYAKAWA. Will the Senator yield for a unanimous-consent request?

Mr. SCHMITT. I am happy to yield.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent for Dr. John Backer of my staff to be granted the privileges in the consideration of this measure today.

AMENDMENT NO. 3620

(Purpose: To delete the transfer of agencies and functions from the Department of Defense to the Department.)

Mr. SCHMITT. Mr. President, I call up my amendment No. 3620 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The lgeislative clerk read as follows:

The Senator from New Mexico (Mr. Schmitt) proposes an amendment numbered 3620.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. Hodges). Without objection, it is so ordered.

The amendment is as follows:

On page 49, line 10, strike out "section 203(11)" and insert "section 203(10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 49, strike out lines 17 through 23.

On page 49, line 24, strike out "(f)" and insert "(e)".

On page 50, line 4, strike out "(g)" and insert "(f)".

On page 50, line 6, strike out "(f)" and insert "(e)".

On page 51, strike out lines 7 through 9.

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

Therefore, I would anticipate a fairly lengthy session today and several rollcall votes. I hope both cloakrooms will announce to Senators that we do expect rollcall votes and expect a late session in an effort to complete action on this bill today. I have no objection to the Senator from New Mexico proceeding.

Mr. STEVENS. Mr. President, are we under controlled time now?

The PRESIDING OFFICER. The Senate is under controlled time now.

Mr. STEVENS. If the Senator from New Mexico calls up his first amendment, he would then have 1½ hours at his disposal on that first amendment.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I have the floor now and I would be happy to yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ORDER THAT S. 2441 AND S. 2541 BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. I ask unanimous consent that calendar order No. 788, S. 2441, a bill entitled the "Federal Public Transportation Act of 1978," and calendar order No. 800, S. 2541, a bill to amend chapter 4 of title 23 of the United States Code to authorize appropriations for certain highway safety programs, and for other purposes, be indefinitely postponed. This is in conformity with the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. I also ask unanimous consent that Eugene Iwanciu of my staff be granted the privileges of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. And Sally Rogers of my staff and James Lockemy from the Judiciary staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. May I ask also for Letitia Chambers of my staff to be granted the privileges of the floor?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Will the Senator yield further to allow me to make a comment for a half-minute?

Mr. SCHMITT. I am happy to yield.

Mr. DOMENICI. I want to thank my colleagues, Senator Ribicoff, and Senator Percy for working out the arrangement which will permit us to conclude this measure today. I have had a genuine interest. Because of time problems, I was concerned that I would not be around when we voted on it. I greatly appreciate the efforts to conclude the matter. Whether we agree or not on the issue, I am very grateful and I want to indicate that.

Mr. SCHMITT. I appreciate the comments of the distinguished senior Senator from New Mexico. His wishes and needs in this matter are a major part

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 56, strike out lines 1 through 14.

On page 56, line 16, strike out "Sec. 211." and insert "Sec. 210.".

On page 58, line 16, strike out "Sec. 212." and insert "Sec. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "Sec. 213." and insert "Sec. 212.".

On page 60, line 4, strike out "Sec. 214." and insert "Sec. 213.".

On page 60, line 13, strike out "Sec. 215." and insert "Sec. 214.".

On page 66, line 2, strike out, "Sec. 216." and insert "Sec. 215.".

On page 76, beginning with line 1, strike out through line 11 on page 77.

On page 77, line 14, strike out "Sec. 305." and insert "Sec. 304.".

On page 78, line 12, strike out "Sec. 306." and insert "Sec. 305.".

On page 78, line 21, strike out "Sec. 307." and insert "Sec. 306.".

On page 79, line 3, strike out "Sec. 308." and insert "Sec. 307.".

On page 79, line 12, strike out "Sec. 309." and insert "Sec. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, strike out lines 10 and 11.

On page 106, line 12, strike out "(145)" and insert "(144)".

Mr. SCHMITT. Mr. President, this Nation, any democratic nation, in fact, will rise or fall on the quality of its educational system. An informed and literate electorate is the one essential ingredient for the survival of a representative democracy. The society in general, and the electoral process in particular, requires a continuous rejuvenation of the imagination and innovation of the people they serve.

Our success as a Nation is the result of a continuous tapping of a uniquely American reservoir of individual and geographic diversity. This has been accomplished through our ancestor's foresight in the constitutional encouragement of a locally controlled educational system.

Unfortunately, this locally controlled educational system is under attack by those who believe, as Alexander Hamilton did, that there is a national elite which can better govern the people than can the people themselves. I only wish that Thomas Jefferson, Hamilton's protagonist in these matters, could join once again in the congressional debate in the issue of a Federal department of education.

Now, debate in the Senate has focused on a bill which would create a new Federal department for the educational elite. Under the proposed bill, the "E" would be taken out of HEW, and educational programs, which are presently scattered throughout numerous agencies and departments, would be consolidated into a new, all-encompassing unit—a Department of Education. The result, according to proponents of the bill, ance, to State,and local authorities, has emerged as de facto control through the threat of withholding funds upon which local systems had become dependent. The creation of a department of education obviously will strengthen this trend toward centralized decisionmaking in the field of education.

Proponents of a separate Department of Education have argued that all major Western nations have an Education Ministry and that it is time for the United States to make a similar commitment to education. Two points must be kept in mind in analyzing this argument. First, education in other nations traditionally has been centralized, while in the United States it has traditionally been decentralized. To quote from the dissenting views of members of the House Government Operations Committee:

> In France, a nation with a ministry (of education), one can enter any third or fourth or fifth grade classroom in the country at a given time of day and find the same subjects being taught in the same way. That is the worst possible argument for a department!

I agree. That is the worst possible argument for a Department of Education in the United States.

Then there is the argument that the United States must make a greater commitment to education. I think it is clear throughout the world that this country traditionally has made a great commitment to education, probably the greatest overall commitment to public education in recetn decades, is the last thing that education in the United States needs and the last thing most Americans want.

Proponents of the new department will argue that it is clear in both the Senate and House bills that the department of education is only to assist State and local authorities, and not to impose regulations upon them in contrast to the arguments I have just presented. This, however, is claimed at the present time by the existing Office of Education and existing educational groups. Yet regulations are being imposed through financial coercion. The proposed department of education would accelerate the process of bureaucratic takeover of our educational system. The Federal Government provides about 10 percent of the finances spent on elementary and secondary education in this country. However, as education is marginally financed—Mr. President, I emphasize that phrase, "marginally financed." It is not profitmaking, it is marginally financed. As it is, it permits almost 100 percent control in many school districts, if not most, in the country. No educational system can afford to lose 10 percent of its funds off the top once they have become dependent on them. Thus comes the mechanism of Federal control.

The people of the United States want less government and not more. They want less governmental control and not more. They want less regulations and not more. Yet, the creation of this new department will result in more government, more governmental control, and would mean greater coordination and efficiency in the administration of educational programs.

While its supporters have argued that the new department is nothing more than a "reorganization" which will result in greater efficiency, there is reason to question this view as to both the result and the motivation. John Royer, president of the National Educational Association, the primary driving force behind the creation of this department, stated:

> Creating a department of education is, indeed, a profound step in which the Federal Government will be recognising for the first time, that it has a responsibility for education in and of itself.

Mr. President, this view differs substantially from that of the claim that the proposed department is "just a reorganization." Again, Mr. Royer states:

> The Federal Government has a responsibility for education in and of itself.

That is hardly just a reorganization. Education in the United States has traditionally been the responsibility of local and State authorities. By its silence on education, the Constitution specifically leaves control to the individual States. Thus, it has been the local parents, teachers, and school boards who have set policies and have decided what is to be taught. This diversity of education has helped preserve our reservoir of national diversity. A department of education is clearly a long first step toward the destruction of much of this diversity.

During the last decade, the Federal Government has become more and more involved in education. What started out as assistance, primarily financial assistance of any nation in the world. And I agree that we must make greater commitments to education. But, Mr. President, we must make them as a society, not as a central government.

One need only look at the spending of the Federal Government to know that major new financial commitments have been made in recent years. In special educational needs, and in increasing the equality of educational opportunity, much progress has been made. Ironically, however, as we have been spending more money on education, as we have seen more and more Federal control and manipulation of education, the general quality of education has been declining. Obviously, more money and more bureaucratic control has not improved education overall. Money and lack of Federal control clearly are not the principal problems.

The proposed department is expressly designed to provide more money and more Federal control of education. No one, I think, will deny that. It is not difficult to imagine this department establishing national "advisory" standards at some point in the future. Later, the department could require adherence to the compulsory standards, if Federal aid is to be continued. Next, standard tests, developed by the Federal Government, could be mandated to check whether the compulsory standards are being met. Last, State and local authorities will be coerced into acceptance of a standardized curriculum as the "only possible" guarantee of meeting compulsory standards. This classic bureaucratic process, one which we have seen again and again more regulations in education than we have ever seen before.

A strong indication of the direction that this new department will take is in the proposal regarding Department of Defense schools, to which the pending amendment is directed. The Defense Department operates 267 overseas schools for the children of military personnel. At the present time, there are about 135,000 students enrolled in these schools. These children have very special needs and concerns related to their unique and changing social environment. The Department of Defense has successfully administered these schools for 30 years. The supporters of the proposed Department of Education insist that these schools be transferred under the jurisdiction of the new department.

Proponents of the department argue that the department will only assist education in this country. Yet, they insist that the department administer, on a day-to-day basis, the equivalent of the 11th largest school district in the United States, namely, those of the Department of Defense. Clearly, the camel's nose would be in the tent, with an organized special interest group pushing hard from the rear.

The fear that this education department may become the national school board has prompted from various groups, including Republicans and Democrats, liberals and conservatives, the American Federation of Teachers, and leading newspapers such as the New York Times and the Washington Post.

There is no question that the United States must have a deep commitment to education; our future depends on that commitment. The commitment, however, must be met through local and State control of education with appropriate assistance from the Federal Government to insure that there is equal educational opportunity. Although the goal of equal educational opportunity may require block grants on a selective basis from the Federal Treasury, there is no reason to believe, nor is there any historical evidence to prove, that the quality of education will be improved by the increased Federal control that a new Department of Education would encourage.

If education in the United States is in need, what then is the answer, if a department of education is not the answer? The answer may be an independent agency for education that takes over HEW's educational responsibilities, and acts to assist, but not interfer, with local efforts. I shall discuss this concept further in a later amendment. Assistance should be in the form of block grants where equal educational opportunity can only be insured by more money, in the form of research on setting educational standards that meet local needs, and in the form of research on improvement of the quality and quantity of basic education. There is need for improvement there, which is obvious to everyone today in this country. The special educational needs associated with most existing Federal departments and agencies, other than HEW, can be best met by leaving the responsibility for such education in the mission agencies.

logistics involved in having a Washington-based federal education department involve itself in the overseas schools that the needs of the children and of the teachers would be better served by improving the relationship that currently exists between these schools and the military bases they serve. They also point out this transfer would place a layer of bureaucracy between the schools who would be administered by a federal education department in Washington and the constituency of these schools, the parents and the children stationed overseas.

We see little value in the transfer and we urge all Senators to vote for your amendment.

Sincerely,

GREGORY A. HUMPHREY,
Co-Director of Legislation.

Mr. President, I would go now into more detail with respect to the pending amendment, relative to the transfer of the overseas schools from the Department of Defense to the Department of Education.

First, Mr. President, the mission of these overseas schools is to serve the military communities and, literally, no one else except for their broader responsibility to serve the Nation. The schools and those communities are intertwined in ways that are unlike schools in the States.

The schools must depend upon the military for many service functions—personnel, travel, supplies, maintenance, and food service. The costs of duplicating those services for the schools alone would be prohibitive, and it is foolish to believe that the bureaucracices of two Cabinet agencies will cooperate to prevent duplication.

granted privilege of the floor; and that Senator HAYAKAWA and Senator THURMOND be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, in addition, there is a great concern among many individuals who may even favor establishment of a Department of Education, but are concerned about the question of the overseas schools, that this new Department of Education will seek to use these schools for experimentation.

These schools are probably unique in our educational system in that there is a crying need for stability.

The reason for this is the transfer of military personnel, after a 2- or 3- or sometimes 4-year period, from one base to another and the need within that environment, somewhat destabilizing in itself, to have stability in the education system of the children of these military personnel.

The normal tour of duty at a given military base for overseas personnel is about 3 years. That results in children changing schools every 3 years. That change may be to another overseas base or to a stateside school.

In either event, the importance of a consistency in curriculum and educational program among the overseas schools is obvious so that the child's educational experiences can proceed with a minimum of adjustment problems.

This has been, clearly, the goal, and it is a goal which has been met, to a large

That is the thrust of the pending amendment. It will be the thrust of another amendment by the Senator from New Mexico. It will also be the thrust of an amendment by the Senator from Alaska.

Mr. President, it is hoped that our efforts to improve Government will soon lead us to the realization that bureaucratic bigness is not bureaucratic goodness. Thus, we must begin to decrease the number of unnecessary departments in favor of independent agencies with clearly bounded charters. At the same time, the Congress must take on more explicit responsibility for the prior review and approval, or disapproval, of the actions of these agencies.

Mr. President, in these general remarks, I would bring to my colleagues' attention a letter dated today from the American Federation of Teachers. It reads as follows:

AMERICAN FEDERATION OF TEACHERS,
Washington, D.C., September 28, 1978.
Hon. HARRISON H. SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: It has come to my attention that you intend to offer an amendment to S. 991, the Department of Education Organization Act to eliminate the proposed transfer of the Overseas Dependent School System included in the Department of Education Bill.

As you know from previous correspondence, the AFT strongly opposes S. 991 and urges all Members of the Senate to vote against it. We do, however, support your amendment and urge its adoption. The Overseas Federation of Teachers, AFT Local 1470 opposes the transfer of this school system. It is their belief that because of the extremely difficult

There is very little indication in our experience to show that.

Costs very probably would go up 10 to 15 percent. In the operation of these schools.

Teaching personnel depend upon DOD for food and supplies through access to base exchanges and, in many locations, for housing. Transfer will cut that access and throw teaching staff on the economy in most areas. Given dollar exchange rate problem, that will be disastrous for many of the individuals, if not most, related to this teaching establishment in the overseas schools.

Schools are used for other base activities. With a transfer, that use will evaporate, or at least be subject to another layer of bureaucracy. The bureaucratic problems of paying for fuel, lights, and maintenance will be overwhelming, again, if our experience with interdepartmental coordination has anything to teach us.

More than 99 percent of new department's energies and attention will be focused on the grants process. That is largely the function now of the Department of HEW. The problems and personnel required to run a school system of 150,000 children are simply incompatible with this other completely unrelated bureaucratic process of grant approval.

Finally, all the Department of Defense needs is another agency helping out on its bases which are critical to our national defense structure.

Mr. President, I would interrupt my remarks at this point to ask unanimous consent that Jim Lockemy and Hugh Hadden of Senator THURMOND's staff be

part, by the Department of Defense over the last several decades.

Currently the DOD schools' personnel are staff members in the Department of Defense, have full security clearances, and receive advance information on troop transfers so that plans may be made for school operation when the children arrive at a new base.

Clearly, this transfer of the overseas school responsibility to a new Department of Education would interfere in the educational planning and the related national security problems that come with them.

Under the "split agency" arrangement, those operating the schools might not be apprised in sufficient time to plan for school operation. Transfer to a Department of Education would require security clearances for those personnel involved in the budgetary planning and various other functions related to the operation of the schools.

Additionally, Mr. President, under operation by a Department of Education, cost efficiency factors might dictate closing of a school even though the military interests might be to maintain a school as an evidence of a national commitment to an area or as a means of maintaining a relatively high level of troop morale through the presence of the family. Specific examples at the moment are at Guantanamo Bay and Bahrain on the Persian Gulf.

Budget cutters in a Department of Education might want to close the schools so that the budget could be reduced even though the total national interest might suggest another course of action.

I do not expect, by these remarks, that the budget of the Department of Education ever will be reduced in any significant amount once it is created.

Since the DOD schools would be the only agency operating K–12 schools that would be in the Department of Education, it would be essentially an appendage subservient to the whims of the Secretary and planners of the agency. This could constitute a serious problem of uncertainty if there should be as many Secretaries of Education as there have been Commissioners of Education in the past 16 years—8 appointed and 4 additional as acting. The importance of continued attention to quality education for military dependents suggests that the entity should be in an organization with relative continuity of leadership.

Currently, in the transfer of personnel, when children have a need for a special type of educational program, consideration is given to that particular need of the child in determining the next duty location. A concrete example may be found in the transfer procedures for Air Force personnel. One can only speculate whether or not this cooperation would be maintained under the proposed transfer. If it were not, the Department of Education could be subjected to continuing complaints about program inadequacies.

Perhaps the greatest concern, although there are many who oppose on the outside the transfer of the overseas schools

Teacher relocation. Teachers are now able to borrow from the base portermaster a number of personal household furnishings such as refrigerators, stoves, and cooking utensils until those items are shipped to them from the States. This loan of goods may last up to 90 days.

Base exchange and commissaries. Teachers have access to the base exchange and commissary for the purchase of groceries, clothing, and other personal items. In many countries these are the only places where U.S. goods are available except on the black market, BX and commissary use is carefully controlled by the military.

Officers' clubs and mess halls. In many instances the officers' clubs and mess halls are the only facilities on or near a base that provides three hot meals a day. For single teachers on a base, these facilities are essential.

Health care. The military health facilities are the best available to teachers overseas. Teachers are entitled to emergency care and depend upon the base for health and medical supplies. In many places health care is simply not available offbase.

Personnel services. The military personnel offices process all teachers' personnel papers, including passports, shipping arrangements, and transportation.

Facilities. The construction of new buildings or additions to existing facilities is now worked out with the civil engineer on the military base. Without access to that military expertise, the schools would not have the ability to

Mail. Currently teachers have access to military mail systems which involve the use of APO and FPO numbers. This reduces cost for mailing and provides for expedited delivery in service.

Teacher transportation. Teachers are able to use military flights on space-available basis for transportation to regional curriculum development meetings, and central office administrators are able to use these military flights in order to maintain contact and liaison with the schools in that area. Teachers are also able to use space-available flights for recreational leave and other purposes.

Other facilities and services. Other facilities and services offered by the military whose availability might be jeopardized include gasoline and automotive services, dry cleaning and laundry facilities, recreational facilities, and the provision of drivers' license and automobile tags. In most areas the military recreation facilities are the only ones which exist within a reasonable distance of the base for use by teachers and their families.

Mr. President, I do not proceed with this list for the sole purpose of saying that those arrangements cannot conceivably be made. In theory, they can. But, again, I remind Senators that we are talking about two major bureaucratic elements of the U.S. Government working out in extreme detail the kinds of relationships between people that now exist very efficiently within the Department of Defense. I do not believe that in many of the cases I have just enumerated into the proposed Department of Education, is that those schools will suffer because of a divided interest in the agency.

Various concerns have been raised about the new department being an operating agency, but perhaps the most critical concern would be the divided attention of the top leadership as attention—or neglect—would be required for the effective operation of the DOD schools and evolving functions of the department with reference to the ongoing elementary, secondary, and postsecondary institutions located in the United States.

Mr. President, I think it would be useful, for the purpose of the record, to have somewhat more detail with respect to the basic relationship that now exists between the Department of Defense schools and military support systems within specific bases and within the Department of Defense as a whole.

Currently, the Department of Defense schools are dependent on the military for a wide variety of support services. The transfer of the schools to a new Department of Education would unquestionably endanger the availability of these services.

Housing. In many cases, on-base housing is provided for teaching personnel, particularly in areas where bases are isolated such as in Turkey or where off-base housing is not available to American staff such as in Iceland. Where housing is available off base, teachers have access to the Housing Referral Service which utilizes U.S. standards of housing in determining availability of off-base facilities.

make those arrangements onsite. Custodial contracts are arranged for by the base commanding officer for the entire base. The cleaning of the school is only a small part of that contract. In many instances it would be economically impossible to arrange custodial services for a single facility such as the schools.

Repair and maintenance. The repair and maintenance of school facilities is handled through the base civil engineer. This includes arrangements for emergency repairs in instances where water pipes freeze, furnaces explode, windows are broken, et cetera. It would be economically impossible for each school to have the personnel and equipment to handle its own repair and maintenance.

Supplies. Schools are entirely dependent upon defense shipping and supply lines for books, equipment, and all other school supplies. Schools receive supplies directly on a drop shipping basis from the military warehouse in Richmond. The duplication of this system would be the most costly and difficult logistical support service.

Bus transportation. In no instance do the schools operate their own buses. Transportation is contracted with the military department at that base with the commander making arrangements with the school superintendent or principal. Transportation is worked out between school authorities and the base transportation officer. Because the schools are able to use military buses already at those facilities, costs are kept to a minimum. Transportation is a very important element of the overseas schools since the vast majority of students are bused to school.

such arrangements can be worked out easily or, at the very least, can be worked out efficiently.

Mr. President, there have been a number of hearings on this issue, not only in the Senate but also in the other body; and I think that some of the comments that have come out of those hearings are important for consideration here today.

For example, in a hearing before the Subcommittee on Labor Standards and the Subcommittee on Elementary and Secondary Vocational Education of the House Committee on Education and Labor, on February 1, 1978, in dealing with the Defense Dependents' Education Act of 1978, Dr. Thomas D. Minter, Deputy Commissioner, Bureau of Elementary and Secondary Education, was questioned by Representative John Erlenborn, the ranking minority member of the Subcommittee on Labor Standards. In their discussion, the following took place:

> Mr. ERLENBORN. How do you personally feel about the Office of Education or HEW being in the business of operating schools?
>
> Mr. MINTER. Well, I don't believe that we should be in the business of operating schools, certainly. I don't think that it is our function and I don't think that it is the intent of Congress.

Mr. President, obviously, that is the intent of this bill that is before the Senate at this time. It is not only the intent; it will be the law.

Similarly, at a hearing before the Subcommittee on Labor of the House Committee on Education and Labor, on April 24 and 25, 1974, dealing with H.R. 3157, the National Overseas Education Act of 1973, Dr. Anthony Cardinale, Director of Dependents Education, Office of the

Deputy Assistant Secretary of Defense for Education, said as follows:

> Since all schools are located on military installations or are on leased facilities under control of the local military commander, operation of these schools by an outside agency could possibly create more problems than would be solved.
>
> The department of Defense has a moral commitment to its members, both military and civilian, to insure that the minor school-age dependents continue to receive a quality education.
>
> Personnel residing on military installations or stationed overseas look to the Department of Defense to provide all required support, including education. Thus, we do not consider it feasible or desirable to remove this important responsibility from the Department of Defense.
>
> Through the many resources already available within the Department of Defense, such as transportation, communication, logistical and administrative support channels, the educational needs of the dependents are being met.
>
> The logistical support system necessary to maintain the worldwide dependents education program is now provided by the base commander through the military departments. To remove the budgetmaking process and budget decisions from the military departments and the Department of Defense places both in an inoperative position.
>
> In summary, we have a good educational system. The current management review, which is based on solid sources, will make the system even more effective and responsive to those it serves.
>
> Therefore, it does not appear appropriate at this time to make any additional substantive changes which would result in disruption or the loss of present continuity.
>
> The costs would rise because of the need to duplicate such a support system. Again, the argument against the operation of any schools by a Department of Education should, alone, be decisive.
>
> It is recommended that responsibility for dependents schools remain with the Department of Defense and such other agencies as operate them overseas.

And I might add that Rufus E. Miles, the author of the preceding remarks, is a major authority on the Department of Education, and he supports the Department of Education but clearly does not support, and with good cogent argument, the transfer of the overseas schools to that Department.

Mr. President, I also cite as somewhat of an authority the Office of Management and Budget. In their report on the Department of Education they concluded that the Department of Defense schools had many problems. However, steps to straighten out the problems should be made, not transferred to the Department of Education.

They cite the potential disadvantages of moving the dependent schools to include:

> 1. Problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result. A transfer problems more effectively than can the Department of Defense. In fact, the new department might find this responsibility to be incredibly burdensome.
>
> Although transfer of the schools is not recommended at this time, the following options are suggested:
>
> The President's Reorganization Project should monitor closely the reorganization of the Overseas Dependents' Schools which is currently underway. Upon its completion, an evaluation should be made of the extent to which it has improved the effectiveness of the operation. Recommendations for further change may be in order.
>
> A linkage should be developed between the Defense Department and the Department of Education by giving the latter legislative authority for oversight and evaluation of the Overseas Dependents' Schools (as well as other Federally operated schools) and to report results to the President and Congress. This oversight relationship should be similar to one between a State Department of Education and a local school district.
>
> There should be created legislatively an Educational Policy Advisory Board composed of Federal and public education officials, administrators and teachers to review and advise the Director of the Overseas Dependents' Schools on the educational directions of the schools. The system seems to border on being a closed society; it could benefit from the insights and experience of those at various levels of public education.

The remarks of the Office of Management and Budget.

Mr. President, I do not concur completely with the recommendations of OMB, although I read them in their entirety. I do feel, however, we should pay very close attention to their analysis of

Similarly, Mr. President, in the hearing on the H.R. 3157 Representative JOHN DENT, chairman of the Subcommittee on Labor Standards said as follows:

> An overseas school system would not, in my opinion, ever be able to be divorced from the Department of Defense as such but it would be administered as a school system and not, as is now the case, as a small appendage of a defense operation.

Carol Kimmel, president of the National Congress of the PTA said in a letter, October 8, 1975 to Representative ALBERT H. QUIE, ranking minority member, House Committee on Education and Labor:

> With control in a central office in Washington, military commanders no longer will have any responsibility for the schools and the schools, as a result, will be denied vital logistical support from the military. Such services, for example, transportation of students would have to be contracted out. . . .
>
> We seriously question whether parents of the children attending Overseas Dependents Schools can be meaningfully involved in the decision making process when control and total responsibility for their schools are placed in a central office in Washington, D.C.

Finally, Rufus E. Miles, Jr., in his article, "A Cabinet Department of Education: Analysis and Proposal," American Council on Education, 1976, said as follows:

> The Department of Defense has a system in being that is operated overseas where the logistic support is adjunct to its other logistic support of bases and personnel. A Department of Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This could require an excessive amount of time of officials in higher reaches of both departments and produce adverse effects on the attainment of goals.
>
> 2. Removing control and operation of the schools from the Department of Defense would have a negative impact on military personnel. It is highly likely that the military hierarchy, the Congressional supporters of the armed services, and some of the parents of the school children would see a transfer of the schools as a serious undermining of their control and traditional responsibilities. Some parents of the children, in particular, may see the transfer of the schools as an attempt to set their children up in a vast experimental laboratory. The schools are no doubt seen as being an intricate part of the defense family. They are in effect an employee benefit. From what we have learned thus far, the educational programs are generally adequate. To set off a furor among the military simply for the sake of consolidating the schools with other activities in the Department of Education seems not to make much sense.
>
> 3. There is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staff. At least at the outset, there could be an irrepressible urge to observe, study and tinker with the programs of the schools.
>
> 4. There would be no advantages to the large majority of Americans from the transfer of the schools.
>
> The problems highlighted here are being worked on in the Defense Department by tightening management controls and by reorganizing the Dependents' Schools. There seems to be little opportunity for the new Department of Education to address the effect and of the problems associated with the transfer of the overseas schools to the proposed Department of Education.

Finally, Mr. President, in summary of this issue, I think there is no question in all of the expert opinion that I have encountered in my examination of this issue, including that of the Office of Management and Budget, the American Teachers Federation, the numerous individuals around the country and in New Mexico that I have talked to, there can be any value whatsoever derived from the transfer of the school system to the proposed Department of Education.

There is no question that the bureaucratic load on both Departments would increase, and who is ultimately hurt by this bureaucracy? The students, the teachers, and the parents in the school system itself.

The costs will almost certainly increase because of this increased bureaucracy and the need to duplicate in many circumstances the increase of the logistical support of the school system, and I am afraid there is going to be considerably less understanding of the needs, the very special needs, of the overseas schools.

Most importantly, the Department of Education, in this Senator's opinion, should never, if it is created, have an operating school system under its jurisdiction. It is not only beyond the intent of the Constitution, it is beyond any reasonable need, any reasonable perception of need, of this great country.

There is no question but what, at first, there will be a tremendous temptation by the Department of Education to experiment with the school system that they now own lock, stock, and barrel.

Beyond that, it would provide the first step toward a national school system and that, I think, Mr. President, would be one of the worst mistakes this country could ever make.

At the very least, I think we should postpone any consideration of the transfer of the overseas school system to the Department of Education until some time in the future when that department, if it is in fact created—and I hope it is not, but if it is created—has time to get its own act in order, and then let us evaluate the pros and cons of that transfer in the light of the two existing departments, not in the light of the department that does exist, and is operating a school efficiently and well, and a department which does not exist, which is just right now a gleam of hope in the eyes of many of the educational elite.

Mr. President, it is my understanding that the majority leader would like to work on a unanimous-consent agreement, and I would be happy to yield to him if I do not lose my right to the floor, and request unanimous consent that I can proceed after he is through.

The PRESIDING OFFICER (Mr. BENTSEN). The majority leader is recognized.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time

Mr. ROBERT C. BYRD. I believe, if the Senator will look at the calendar, he will find the answer; the reason I say this is that I am unable to remember just what the details were with respect to Mr. HAYAKAWA's amendment.

The PRESIDING OFFICER. The Senator from California will call up an amendment on which there will be 2 hours equally divided.

Mr. ROBERT C. BYRD. Mr. HAYAKAWA, I believe, would have 1 hour on an amendment and 1 hour on a motion to recommit, equally divided.

Mr. HAYAKAWA. I thank the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New Mexico for yielding I thank all Senators for the agreement that the Senate complete its business before 9:30.

Mr. SASSER. Mr. President, will the Senator from New Mexico yield for a unanimous-consent request?

Mr. SCHMITT. I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that Howard Orenstein of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time so that the distinguished Senator from Con-

asked ourselves which agency of the Federal Government would be in the best position to provide the highest quality education to the 135,000 students in the DOD schools.

Looking objectively at the merits of the issue, I think there is an overwhelming case to be made for the transfer.

We should not expect the Defense Department to have the expertise of running a public education system. Obviously, the purpose of the DOD schools is more in line with the mission of the Department of Education than of Defense.

These schools are not integrally related to the maintenance of the national defense posture. The schools do not prepare its students for any purposes related to the military. They are regular American elementary and secondary schools.

The schools are not a priority at the Defense Department. How could a $350 million public school system receive the professional attention it needs in a $100 billion Department?

The expertise in the field of education will be in the Department of Education. The many and varied educational programs in the new Department should be made available for the improvement of these schools. Programs for gifted and talented children, academic facilities improvement, and educational research—to name a few—are all badly needed functions which will benefit the DOD schools in the new Department.

agreement on the pending measure, the Department of Education bill, be modified as follows: that there be 1 additional hour under the control of Mr. Schmitt, and that a final vote occur no later than 9:30 p.m. today with paragraph 3 of rule XII waived.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, and I am sure I will not object, I will just ask, for the Record, and for my colleagues, I presume that takes into account the pending unanimous-consent agreement and for the various amendments and the total time up to the final vote is a cumulative total?

Mr. ROBERT C. BYRD. The pending agreement would not change it in any respect, beyond what I have requested. That the Senator from New Mexico (Mr. Schmitt) have 1 additional hour and that a final vote occur on the passage of the bill at no later than 9:30 p.m. today.

Mr. HAYAKAWA. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. If the Senator from New Mexico will yield for that purpose.

Mr. SCHMITT. I have yielded for the purpose of adopting this time agreement. I will yield now to the Senator from California.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HAYAKAWA. Mr. President, may I ask the distinguished majority leader with respect to my amendment in this unanimous-consent agreement, it does not touch mine?

necticut or the distinguished Senator from Illinois may have a chance to respond.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIBICOFF. Mr. President, I rise to oppose the amendment of the distinguished Senator from New Mexico. The Governmental Affairs Committee gave serious and thorough consideration to the transfer of the Defense Department's overseas dependents schools to the new Department of Education.

We devoted 1 day of hearings to the transfer of these important schools. This transfer is supported by nearly all parties involved, including the Overseas Education Association—which holds exclusive recognition for the 7,000 DOD teachers—the European Congress of American Parents, Teachers, and Students, and the Department of Defense.

If the DOD school system were within the continental United States, it would rank as our 12th largest elementary and secondary school system.

If we are going to create a Federal Department of Education, I think it would be unfortunate not to allow this school system to participate in education programs serving the rest of the country's children.

The DOD schools exist for a specific purpose—to provide education for dependents of our military personnel. They are one of the very few public school systems operated by the Federal Government.

When the committee studied the creation of the Department of Education, we

I believe locating the dependents schools in the new Department of Education will result in a wide range of benefits for the schools. Being administered in the Education Department, the schools will be kept in touch with the latest education trends and technologies. The Secretary of Education will be the most knowledgeable Federal official in the field. He or she will have broad access to a wide range of experts and materials which could help with problems in the DOD schools.

The transfer will provide continuity for students alternating from DOD schools and continental U.S. public schools. The average term of duty for members of the military overseas is usually 3 years or less. So there is a great amount of movement for students between the various school systems. Students will learn more if they can simply pick up where they left off after leaving one system for the other.

And, most importantly, S. 991 will provide the DOD schools with a legislative base upon which to operate. As my colleagues know, these schools have been authorized in the past only by the congressional appropriations committees. Congress will then be in a better position to more effectively oversee the efficient and quality operation of the schools, and recommend necessary changes.

Mr. President, the dependents schools have had a troubled history. As late as 1976, the schools were found to have serious deficiencies in curriculum planning, educational testing, teacher qualifications, academic standards, and academic facilities. While the situation has improved somewhat over the years, there is still much room for improvement. I ask unanimous consent that a two-part series of articles of the "Dependents Schools in Europe—A Disorganized System in Danger of Flunking," written by Rick Barnard for the Times magazine, be inserted in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DEPENDENTS SCHOOLS IN EUROPE: A DISORGANIZED SYSTEM IN DANGER OF FLUNKING

(By Richard C. Barnard)

Marleah Reed, a senior at Nuremberg American High School in Germany, stood in front of her debate class and exhibited her drawings as she delivered a point-by-point argument designed to convince her teacher and classmates that a fetus is a human being and, therefore, abortion is murder.

She then sat and listened as her two opponents read through page after page of technical jargon they obviously had copied verbatim from some medical text. One debater didn't know the meaning or correct pronunciation of many of the words she used. Yet no one in the class, including the teacher, seemed surprised that Marleah's opponents had done no original work of their own.

Marleah received excellent marks for her presentation and her two opponents—who had demonstrated little more than the ability to crib—were given passing marks.

"That gives you an idea of what goes on here," said Marleah as she walked down the school's dark, grimy hallway after class. "My last school was in Washington state. The teachers there had us doing term papers in our sophomore year. Here, we never do term children who go to school without the workbooks and texts that students elsewhere take for granted.

The mother of a girl in the second grade at the Nuremberg Elementary School annex said, "my father was in the Army and I went to Stuttgart High myself. Back then, I couldn't see any difference between public schools back home and the dependents schools. I can't say that now. My kid spends every Frday afternoon in school doing macrame or playing chess or going bowling. I just don't feel she's getting the best."

Others disagreed. Emily Johnson, who has a daughter in the Wiesbaden schools, said, "My child is getting as good an education as she could get anywhere."

Despite disagreement over its quality there is one obvious certainty about the dependents school system in Europe: The children of most Army people (and of many Air Force and Navy personnel) will obtain part of their education there.

"Europe is where the action is," said Gen. George S. Blanchard, commander of the U.S. Army in Europe, in a recent speech to parents. "The ambitious guy wants to come here and get into the thick of it.

"But I want him to want to come here because his family is going to get something out of it as well. And that means, among other things, a quality education. [To military people] the schools are the most important thing in the world."

WHAT IS THE DEPENDENTS SCHOOL SYSTEM?

The dependents school system in Europe has been in existence for 30 years. In 1946, 38 elementary schools and five high schools—some no more than a collection of tents and quonset huts—opened their doors to 1297 military children who trudged to class through the ruins of a defeated Germany.

As military families poured overseas at the end of World War II, the military de- with the chief of dependents schools in Europe, Dr. Joseph A. Mason. Instead, any order or suggestion or inquiry from Cardinale had to go to the Office of the Army Adjutant General. Perhaps his missives would reach Mason and perhaps not. Any that did went through 10 separate layers of Army bureaucracy and often took 30 days one way.

Cardinale complained to his boss, Roger T. Kelley, then Assistant Secretary of Defense for Manpower and Reserve Affairs, that the Army's reading of the directive left him powerless. Kelley okayed the Army interpretation though he never gave it his formal, written approval, according to a 1973 House Appropriations Committee report on the schools. Thus the unified school system that existed on paper never existed in fact.

The school system in Europe went its own independent way with Mason at the helm. Last year, it had 5600 teachers, a budget of $147 million and ranked in size among the top 25 school systems in the U.S. In size and student population, it is roughly equal to the school system in St. Louis, Mo.

Dependents schools are spread from Norway to Turkey to North Africa. The Army did not build any schools in the Sixties and still has not caught up with the demand for school facilities, despite the expenditure of $58 million on new construction in the last three years.

London Central High School is housed in a converted Air Force barracks. Rumor has it that Frankfurt, Jr. High was once a Nazi women's prison.

Frankfurt Elementary School No. 1 looks exactly like what it is: An outdated, rundown institution painted government gray. The floors are filthy, the water faucets leak and the kids are scrunched nose to nose like those cute little puppies you see in wire cages at the dog pound.

The school was built 24 years ago for 1,000 papers. Some of the teachers just seem to skim over the top to get you by. In some classes, about all you have to do is show up every day."

ARE THE SCHOOLS GOOD OR BAD?

The debate was a minor episode, a small part of the classwork required of Marleah and her fellow students. But it is an example of the problems faced by the schools operated in Europe for the sons and daughters of American military people.

The results of a four-month investigation of the dependents school system in Europe by the Times magazine indicate that the failure of school administrators to plan and evaluate their academic programs adversely affects the educational growth of military children.

The school system has no educational objectives or academic standards. Its program of standardized tests has been poorly administered and has shown inconclusive results. Therefore, school administrators have no systematic way to monitor the academic growth of their pupils and gauge the effectiveness of their educational programs.

The lack of educational planning and minimum standards of achievement in the dependents school system means that many teachers and students are left to "do their own thing" in the classrooms with decidedly mixed results.

The purpose of the dependents school system in Europe is to provide military children with educational opportunities that are "of high quality . . . comparable in all respects to the better school systems of the United States," according to Department of Defense directives.

Many parents and teachers in Europe believe the schools fail to meet that goal. In interviews with the Times magazine they talked about teachers who hand out "A's" and "B's" like playing cards, principals who say pupils should not be required to take basic academic courses they don't want and

partments opened schools around the world. Most were—and still are—in the European area. Last year there were 211 schools and 110,452 students in Europe compared to 57 schools and 30,557 students in the Atlantic and Pacific areas combined.

For nearly 22 years, the Army, Navy and Air Force each operated the schools on their own bases. In 1968, the Secretary of Defense signed a directive that organised the schools into a single, unified school system under the Department of Defense (DoD).

The military departments were not out of the picture, however. The new system was divided into three school districts along geographical lines and the service with the most money and manpower in each district was to build the schools and supply them. The Air Force took responsibility for schools in the Pacific, the Navy for schools in the Atlantic and the Army took over schools in Europe.

Academically, the schools would be run by a DoD director of dependents education in the Pentagon who would establish educational policy and develop a common curriculum. This was supposed to solve the myriad problems and parental complaints caused by such things as the 31 different reading programs which required different textbooks, different teaching aids and different methods of instruction. Unification was supposed to cut costs and enable military children to transfer from one overseas school to another without falling behind due to the maze of different educational programs.

But that is not what happened, at least not in Europe. The DoD Director of Dependents Education, Dr. Anthony Cardinale, never took control of academic programs there because the Army interpreted the new directive to mean that it would not only build and supply the schools but run them as well.

Cardinale could not communicate directly

pupils. The enrollment last year was 1,600. Some teachers had 35 students in their classes, which is far too many by any standard.

Not all of the dependents schools are dilapidated. Upper Heyford High School in England is so new it has the smell of a Cadillac fresh off the assembly line. Its electronic lab, automative shop and home economics center bristle with brand new equipment. Unlike other dependents schools in Europe, Upper Heyford High has a lunch room large enough to feed all the children who go to school there.

EUROPE SCHOOLS: THE REPORTS WERE BAD

After years on its own, the school system in Europe is independent no longer. Following an investigation by the House Appropriations Committee, Congress in 1974 ordered DoD schools around the world unified once and for all.

The committee's 1973 report on the dependents schools in Europe criticised, among other things, the lack of effective counseling to prepare high school students for college and the "proliferation of ineffective curricula." Academic programs that had failed in some schools and should have been shelved were instead spread to still more schools, much like a contagious disease.

That report came hard on the heels of a damning report on the lack of effectiveness of the dependents school system in Europe published in 1973 by the Army Audit Agency (AAA).. The AAA report stated that certain educational programs were not effective "because they were not controlled closely enough by management."

The AAA found, for example, that achievement test scores were not analyzed by principals and teachers and that the tests were not used to improve the academic growth of military children.

In one high school, Army auditors selected 83 students who had attended overseas schools for one year or more and compared their achievement test results to their intelligence test results. The auditors said in their report: "We found that 63 of these students were achieving below their ability in one or more of the six areas (such as reading, math, and science) covered by the achievement test."

The poor showing by the 63 students was "an indication that the educational program at the school was not fully effective. . . . If test results had been analyzed, this problem could have been detected," according to the AAA report.

To obtain better management of educational programs for military children, Congress took budget authority for the schools away from the military departments and gave it to DoD effective July 1 this year. From an organizational standpoint, the schools are right back where they started in 1968. Only this time, Congress intends to make the unification stick.

Cardinale, who kept his title all along, is now director of all dependents schools in fact as well as in name. Mason, director of dependents schools in Europe, now reports to Cardinale instead of to the commander of the U.S. Army in Europe. Cardinale has begun organizing the school system's academic programs and plans to give regular achievement tests in all schools beginning in September 1977.

The reports on the schools by the House Appropriations Committee and the AAA were soon followed by a third evaluation, this one published in September 1974 by the General Accounting Office, the investigative arm of Congress. It read much like the first two reports, saying that educational programs are poorly managed and that efforts to evaluate the quality of education provided by dependents schools in Europe "have been sporadic and inadequately coordinated and monitives—general lists of topics in each subject area to be covered at each grade level.

This and other criticisms expressed here might apply in varying degrees to other school systems as well. The problem with the dependents school system in Europe is that its administrators have an apparent affection for the status quo. They have been told repeatedly over the years that their educational programs are weak but, as we shall see, have done little about it.

WHAT—AND HOW—SHOULD TEACHERS TEACH

A school superintendent without a standard set of curriculum objectives is like a warring general without an attack plan. Both need a way to tell their people what ground they are expected to cover.

Teachers in the States use curriculum objectives to plan their classwork and keep a running check on what their pupils are learning.

In Montgomery County, Md., Public Schools (considered one of the better school systems in the U.S.), for example, one of the 21 general objectives in third grade math is that children should be able to divide two-place dividends by a one-digit number—"Okay, kids, what's 18 divided by 3?" The list of objectives is an indication to teachers that most of their students should master those skills before the year is out.

Each child in Montgomery County has a check-off chart on the basic skills. Teachers use the chart to keep track of what each student learns. The chart is a part of each child's permanent record and follows him from one grade to the next.

That way, Johnny's new teacher can read the chart in September and get a good idea of how much he doesn't know. That's important because the simple knowledge that the 30 children in Miss Custer's class are all in the third grade means little. Some may be at the fifth grade level in reading and at But many teachers didn't like the idea, according to Knapp. "They thought it would take away from their flexibility in the classroom," he said. "But that's not true. Objectives are a guideline of *what* to teach. Each teacher decides *how* to put the material across."

An art teacher is Wiesbaden said, "We have a course outline but it's old, old, old. I think it was written in 1956. There's not a lot of planning going on around here."

Bonnie Giles, a fourth grade teacher at Wuersberg Elementary School, said, "The curriculum is based on nothing. You never build on what the child learned the previous year. Learning is not reinforced and we're not taking the child one more step at each grade level."

Audrey Haynes, a teacher for 13 years including three in dependents schools, said, "In Cleveland, we had curriculum objectives and the teachers met to plan what they wanted to accomplish. But here, every teacher does his own thing. We stay in our classrooms, in our own self-contained little worlds."

WHY SCIENCE TEACHING IS MISSING

Most elementary teachers interviewed admitted they do little science teaching. Traditionally, elementary teachers are weak in science and tend to shy away from the subject, so a strong curriculum is needed.

To provide it, school administrators in Europe purchased a prepackaged science program developed by the American Association for the Advancement of Science (AAAS).

The AAAS program has been successful in other school systems, but in the dependents schools it bombed.

The failure of AAAS—and the waste of $750,000 it cost—is a prime example of how the lack of educational planning in the dependents school system adversely affects itored and have shown inconclusive results."

WHAT SHOULD YOU "GET OUT OF SCHOOL?"

That was two years ago. What have school administrators done to correct problems of the past? How effective are the dependents schools in Europe today? To find out, I visited 14 schools in Germany and England and interviewed 182 people—educators, students and parents—in Europe and Washington.

Some of those interviewed wanted more order and discipline in the schools. Others—parents and teachers alike—wanted "more basics." But most had one thing in common. They were after that slippery, vaporous prize sought by almost everyone concerned about good teaching—"a quality education." Yet finding a solid definition of that phrase is as likely as catching a black cat in a thick fog.

The educators and parents of children in the dependents schools face the same basic questions as their counterparts in the States: What should one "get" out of school? What is the best way to provide it? And what is a reliable way to check and see what kind of job the schools are doing?

Dr. Louis G. Zeyen, deputy director of the American Association of School Administrators in Arlington, Va., said, "For successful teaching, you must begin with four essentials. You've got to have an idea of the abilities of your students, an established set of curriculum objectives, a text and a method of measuring your results."

The administrators of the dependents school system in Europe have failed to provide those four essentials. They have no organizational plan that encourages good teaching. Instead, Mason and his subordinates have produced an educational free-for-all.

They have long overlooked a basic precept of education: That school systems should have a standard set of curriculum objectives the second grade level in math. Different children with different parents and different backgrounds learn at different rates. That's why curriculum objectives are important. They are an outline of what most children should learn at a given grade level.

But the dependents school system in Europe has no such minimum standard. As a result, some subjects are virtually ignored in many classrooms while course work in others is needlessly repeated. Principals and teachers have only the foggiest notion of what their students learn from one grade to the next.

When asked about her science curriculum, a teacher at Wuerzberg Elementary School replied, "Oh, I hit it a lick every now and then. The administration hasn't sent us a thing on science in years. Sometimes I borrow a science book from a teacher down the hall and type up some lessons." What about history? "I ad lib it," said the teacher. "We didn't have any books this year."

Dick Knapp, a fifth grade teacher at Frankfurt Elementary School No. 1, is slim and short and dresses in muted browns. He has short brown hair, blue eyes and still bounces with enthusiasm for teaching despite his conclusion that doing a good job at Frankfurt is nigh on to impossible.

"Teaching here is really different," said Knapp. "When I first got here, I had no workbooks and no materials. The only thing I had for my class was a few torn-up textbooks. I had never taught fifth grade before so I looked around for a guideline of what should be covered. There was none. We have no structure here, no continuity. In teaching, you've got to have building blocks; you've got to present the material in sequence. In American History, we teach the same thing in the fifth grade as we do in the sixth grade."

Knapp was soon named chairman of the school's curriculum development committee and began pushing for a set of objectives the education of military children.

Basically, the AAAS program consists of a teacher's guide and student kits designed to use a series of experiments to teach children about the processes of scientific inquiry. It is a new and somewhat complex approach to science teaching.

The first requirement of AAAS or any other prepackaged course is to train the teachers how to use it. Dependents schools administrators sought to do that by inviting a comparative few elementary teachers to attend voluntary AAAS workshops on their own time. According to many teachers interviewed, there were not enough workshops and the instruction in those that were held was sketchy at best.

However, Dr. Allen Dale Olson, community relations coordinator for the dependents school system in Europe, said, "The AAAS workshops were fairly widespread. The company that sold us the kits provided a training service. They teamed up with our curriculum people and visited the schools on an invitational basis."

Regardless of the number of workshops, many teachers who received the AAAS program didn't know how to use it. Those who did use the program said they were never resupplied with the items needed for student experiments, therefore the AAAS kits soon became useless.

In contrast to the dependents school system, in-service training for AAAS science in the Dade County, Fla., school system consisted of weekly classes throughout the school year. Teachers also were offered a 15-hour crash course in AAAS. "You couldn't say that we required teachers to attend, but they were strongly advised to take the course and most did," said Harriet Ehrhardt, consultant on science education to Dade County Schools.

The Dade County program has met with considerable success. In dependents schools, it was obvious by 1974 that the AAAS program had failed. What have school administrators replaced it with? "Nothing," said Barbara Rudometkin, a fifth grade teacher at Karlsruhe Elementary School. "There's practically no science teaching done in my class or in any other elementary class."

Her principal, Fred Mossinger, said, "Science is our weakest subject. The responsibility for the science curriculum has been laid on the individual teacher."

As a result, when children in dependents schools enter junior high school, "They don't know an ant from a centipede," said Carol Stopplecamp, a seventh grade science teacher at London Central High School. "They [elementary schools] are spending too much time on frills. My boy is in the fourth grade and he has four hours of swimming every Friday."

An elementary teacher in the Amberg, Germany, schools said, "When I was a seventh grade science teacher I always wondered why the kids came into class knowing nothing about science. Now I know why. There is no science teaching in the elementary schools. I'm a biology teacher, but I still need a guide to teach science."

WHY THE SCHOOLS HAVE NO STANDARDIZED CURRICULUM

The administrative staff at the dependents schools central office in Karlsruhe, Germany, includes 14 curriculum coordinators who supposedly help plan educational programs and introduce them into the schools. Yet Mason's method of developing curriculum objectives—a chief function of management—was to tell the principals of each school to form a committee and write their own. Had all the schools done so—some didn't—the dependents school system would have ended up with 211 different educational programs.

Mason, director of schools in Europe, believes that having a standard curriculum for all schools would be a disservice to some pupils.

dependents school system in Europe over what should be taught in the classrooms and how the academic curriculum should be presented.

The debate centers around the decision by school system administrators to permit secondary schools to reduce the number of required basic courses in English and social science. Over the last decade, about 25 of the 37 dependents high schools and many junior high schools have replaced their required courses in those two subjects with electives.

The switch to electives reflected a fundamental shift in educational philosophy. The freedom to choose became a priority in many dependents schools in Europe. To accommodate that priority, the dependents school system three years ago reduced its graduation requirement from four years of English to three so that pupils could take minority studies and more electives, such as art and music, that they would enjoy.

The reduction was made in the face of hard evidence that the ability of dependents school students (and those across the nation) to read and write was on the decline.

The way to stop that decline, some believe, is to concentrate on the essentials of reading, writing and arithmetic.

According to many teachers and parents the Times Magazine interviewed, the electives system does not provide students with enough instruction in the skills crucial to academic development: reading, grammar, mechanics of writing and vocabulary building. And as a result, schools which use electives some times fail to deliver on their fundamental promise to parents: To teach their children how to read a simple article and write a lucid paragraph.

In a series of three resolutions passed last May, the PTSA declared that military children "are not being provided enough instruction in the basics" and demanded that

The principal of Upper Heyford High School, David L. Schlesinger, said, "We're taking a hard look at our electives English program. Teachers in other departments become very concerned when they find the kids can't read and write."

Karen West, a junior at Nuremberg High School, said, "I liked the old way of teaching better. You could learn more. All my friends dodge the harder courses and so do I. My English teacher is really great though. He cares about whether you learn or not."

Her teacher, James H. Mulder, said it once was true that students could pick and choose courses, but that grammar and composition courses have been added in the seventh and eighth grades. Nuremberg will stick with the electives approach, however.

Many teachers in dependents schools say electives work because teenagers who select their own courses and instructors are more interested in their classwork and more receptive to good teaching.

For some people, that's true. The wife of an Army sergeant with a daughter in Nuremberg High School said, "Sherry gets to select her own books now and she's reading lots better."

Karen Beckler, 16, who attended Frankfurt High School for more than a year and now lives in Gwinn, Mich., said electives made school more interesting "because you get to pick your own courses and change classes a lot [every nine weeks]. When I got back to the States, it was the old grind. Everything is taught right out of the book."

Gibbons, language arts coordinator for the school system, said one advantage of electives is that teachers specialize in a single subject instead of teaching grammar, composition and literature in a year-long required course.

"Ultimately, it's not the way you organize the curriculum that counts," Gibbons said. "It's the quality of the teacher and I do not

Mason said, "In some of the schools near our headquarters areas, most of the children want to go to college. In other areas where you have a high concentration of troops, few of the children want to go to college. That is my concern. How can you have a standard curriculum for every school?"

However, many educators and parents the Times Magazine interviewed believe children should be taught the same basic skills regardless of whether they want to be plumbers or engineers.

Dr. Joan M. Gibbons, curriculum coordinator of language arts (English) for the dependents school system in Europe, said teachers know "where the kids are [academically]" and can best decide what curriculum objectives are needed. "You change your curriculum to meet the needs of your students," said Gibbons. "We sometimes have complete shifts in missions at various posts. Our student populations keep changing."

That is precisely why other educators believe curriculum objectives should be systemwide. Dr. Gordon Cawelti, executive director of the nationwide Association for Supervision and Curriculum Development in Washington, D.C., said standardized objectives "are especially important for military children who move around a lot."

And in a resolution passed at its annual meeting last May, the 31,000-member European Parent-Teacher and Student Association (PTSA) called for the dependents school system in Europe to standardize curriculum objectives. It did this because "A wide variation of course content in individual subjects exists even within a single school . . . [which] can be detrimental" to the education of military children who often are transferred from one dependents' school to another.

THE ELECTIVES DEBATE: FUN VS. TOUGH COURSES

The PTSA resolution is part of a sharp and sometimes angry debate being waged in the Mason order the schools to abandon electives in favor of a traditional English curriculum in which students "are exposed to comprehensive instruction in the mechanics and technique" of effective writing.

Educators and teachers critical of the electives system say it doesn't work because students skip from one course to the next like so many butterflies in a daisy field, missing much of the instruction they would receive in a program of required courses.

These critics believe students select fun courses such as drama rather than tough courses such as composition, that most teenagers are unable to do the long-range planning necessary to select the courses they need and that the academic curriculum is not presented in a logical sequence.

Nancy McGee, an English teacher at Wuerzburg High School, said, "There comes a time when you have to explain that a sentence starts with a capial letter and ends with a period. Then you teach them how to write an essay."

Sonia Zenk, who last year was executive vice president of the PTSA and had two sons in Frankfurt High School, said, "We have children taking 'Humor in the Media' who don't know how to write a good paragraph. They take grammer in the last quarter of the ninth grade rather than the first quarter of the seventh grade. The elective system just doesn't work."

Some educators in Europe agree and are cutting back on electives. John G. Korslund, principal of Wuersburg High School, said, "A few years ago there was a swing toward more innovative practices, but we're not really doing right in neglecting the basics. There must be a certain amount of grammar and spelling. This year, we had schoolwide spelling bees for the first time in years."

Korslund is adding required English classes at the seventh and eighth grade level and offering more remedial courses for high school students "who aren't proficient in English."

believe for one minute that the basics have been neglected" in dependents schools.

DO ELECTIVES MEAN POOR SCORES?

However, almost every available measure of academic achievement indicates that the ability of high school students to read and write has been declining for more than a decade.

The national average score on the verbal portion of the Scholastic Aptitude Test (taken by most college-bound students) has shown a steady decline over the last 12 years. Recent studies by the National Assessment of Educational Progress show that the essays of 13 and 17-year-olds are far more awkward and disorganized than the efforts of those tested in 1969. The studies also showed that the writing ability of nine-year-olds had improved compared to 1969. And in an investigation of declining academic achievement in the nation's colleges and schools, *Los Angeles Times* reporters Jack McCurdy and Don Speich found that, "It is the fundamental and massive shift from basic academic requirements to an array of electives that seem to be the most direct contributor to the achievement decline in schools and colleges."

McCurdy and Speich examined results from the Graduate Record Examination taken by most college graduates bound for graduate school and found that: "In areas where electives have blossomed, such as the social sciences, the scores have dropped sharply. Conversely, in the natural sciences where there are more requirements and fewer electives, scores have risen."

What about students in the dependents schools? Have their reading abilities declined also? Do they write better or worse than military children who sat in the same classrooms three years ago? The answer is that nobody knows for sure. Neither the teachers nor principals nor Mason himself can demonstrate with any degree of certainty whether or not the dependents schools are effective. The dependents school system does not systematically monitor student achievement in such basic skills as reading and math. Most large school systems in the States use standardized tests to measure student progress in the basics and spot weaknesses in their academic programs.

For example, Dr. Roberta Keiter, coordinator of testing for Montgomery County Public Schools, said, "About six years ago, our overall score on the language arts portion of the tests fell to the 42d percentile [meaning 58 percent of students in a national sample scored higher than Montgomery County students]. And we found it was the way the curriculum was being implemented. They were teaching all this creative stuff in the schools. You know, do your own thing. It was all literature, poetry and drama and nothing to reinforce the English skills. We had to tell them to knock it off."

THE SCHOOLS ADOPT AN ELECTIVE APPROACH TO MANDATORY TESTING

The dependents schools began a mandatory program of standardized tests in 1969 using the Iowa Tests of Basic Skills (ITBS) which measure scholastic achievement in English, math and study skills. The ITBS currently is used by school systems in Houston, Milwaukee and dozens more cities across the country.

The testing program in dependents schools didn't last long, however. When students tested low in certain English and math skills in 1969 and 1970, school administrators in Europe failed to take a hard look at their educational programs to see what, if anything, was wrong. Instead, they simply cancelled the tests in violation of DoD regulations that made the testing program mandatory. DoD officials later suspended the testing program.

In 1974, the suspension was lifted and students in a sample of schools were given the ITBS. Once again, the results were disquent moves [by military children] from one school to another," Coffman said.

The lowest achievement scores were in math. Most dependents schools teach modern math concepts which were not covered by the regular ITBS at that time. When a special modern math supplement to the ITBS was given to 1300 students after the first test results came back in 1969, math scores rose.

Test results from 1974 suggest there still may be a relatively low performance in math problem solving which is covered by the regular ITBS.

However, the comparison of average performance of students in dependents schools to a national sample in any particular year is of little meaning, according to Coffman. What is important is that "by comparing test performance of one year with performances in previous years—or performance on one subject with that in other subjects—[teachers and principals] can begin to formulate educated guesses about what is happening to pupils in the school system."

Used effectively, test results can help teachers and counselors determine the academic level of each pupil and plan their students' classes around the subject they need most. This is especially important in schools that use the elective system.

But that kind of planning doesn't happen in the dependents school system. The students were tested in only four of the last seven years. And in 1974 and 1975, the tests were given in only 20 percent of the schools.

WITHOUT STANDARDS, FEW STUDENTS ARE FAILED

In the interviews with the Times Magazine, several principals admitted they don't know the reading levels of their high school seniors and have no clear idea of what and how much their pupils are learning.

Furthermore, it is impossible to tell exactly what military children are required to had an active retention program, we would just retain the same kids every year. All you do is make the child feel like a loser."

But Lynne Holland, international president of the Overseas Education Association, the largest teacher's union in dependent schools, said the school system's policy against retention "simply promotes illiteracy."

"I'm certain you could come up with lots of empirical data on the emotional trauma suffered by a child who's retained," Holland said. "But compare that to the emotional damage done to a 16-year-old who's in high school and can't read. He's always at the bottom of his class and may be a disciplinary problem too."

An elementary teacher in Wiesbaden said, "If you have a slow learner in the first or second grade, that's the time to retain him. After that, it's too late. The decision is supposed to be made by a child study committee in each school. But even when parents want their own child retained, they [committee members] say, 'Oh, no, your child has an IQ of 130 and we wouldn't think of retaining him.' They talk the parents right out of it. And the child may be low in motivation and everything else."

Ann Hetherman, a social studies teacher at Frankfurt Jr. High School, said, "If the children are a certain age, they're supposed to be in a certain grade, so the [school] system just keeps moving them up. That's why they graduate from high school and still can't read."

In the dependents school system, the lack of academic standards has an obvious effect on some students.

Kenneth Griffith, a retired Army sergeant now living in Security, Colo., who returned to the States last March, said, "I had six kids in the Frankfurt schools and they're still trying to recover from the effects. Before we left, they were all good readers. Now appointing. In 1975, the same sample testing was done, and the results were the same as 1974—disappointing.

Test results from the dependents schools in Europe were not made available to parents, as is done in many Stateside school systems. But Mason, director of dependents schools in Europe, occasionally announces the results himself. In a speech last May to the European PTSA, for example, he claimed test scores of students in dependents schools compared favorably with the national average.

That is not completely true. Available test results indicate that average scores from dependents high schools in Europe were usually above the national average while average scores from elementary schools were generally below it (see story on page 40).

In 1969 and 1970, the DoD testing program included a series of intelligence tests. Therefore, educators could measure the difference between ability, as measured by the intelligence tests, and achievement, as measured by the ITBS.

At the request of The Times Magazine, all available test results were reviewed by Dr. William E. Coffman, professor of educational measurement at the University of Iowa, and director of the statewide testing program in Iowa.

Coffman said intelligence test scores indicate that pupils in the overseas schools "appear to be at least as able and possibly a bit more able" than pupils in a national sample of students tested by the Houghton Mifflin Co., which publishes the tests.

However, low achievement scores from the ITBS in 1969 and 1970 indicate that "the achievement of pupils was not quite as high as one might reasonably expect" on the basis of intelligence tests, Coffman said.

To find out why achievement scores were low, "One would look at factors in the school situation [such as] the nature of the curriculum, the quality of teaching or the freelearn. The dependents school system has no academic standards. Students are not required to demonstrate proficiency in English, math or anything else. They are promoted from grade to grade and given high school diplomas regardless of their ability to read a book, write an essay or perform basic arithmetic computations. A diploma is little more than a certificate of attendance.

The dependents school system has no grading criteria or standard grading symbols. The "A" math student in one class may be no more proficient than the "C" student down the hall. And without educational goals or system-wide tests or academic standards, neither parents nor educators can differentiate between the two.

Some civilian school systems, worried about declining achievement, are toughening up. In Los Angeles, students must pass a proficiency test in reading before they can graduate from high school. A new Florida law requires proficiency tests in grades three, five, eight and 11. All who fail are given remedial tutoring at state expense.

Students in Maryland must pass proficiency tests every year from the second grade on. Those who fail are retained in grade or receive special help. he school system in Denver, Colo., long has required pupils to pass proficiency tests in English and math before they graduate.

Those who fail receive a certificate of attendance, not a diploma. In years past, proficiency was determined by the classroom teacher. Students who did adequate work were promoted and those who didn't were retained in grade. But it's standing policy in the dependents school system that children may not be retained without permission of the parents and a child study committee. That is the conventional wisdom among most educators today. Few children are held back. Many believe retention does more harm than good. Fred Mossinger, principal of Karlsruhe Elementary School in Germany, said, "If we

half of them are in remedial reading because they fell behind overseas.

"And they didn't have much to do in class. They rarely had homework and that hurts. They picked up a lot of bad study habits that they have to get rid of."

An administrator for Army schools at Fort Knox, Ky., said, "The elementary children that come here from Germany have a hard time keeping up. They're reading way below grade level. There's been a downhill trend over the last five years."

DESPITE THEIR FAULTS, THE SCHOOLS HAVE THEIR GOOD POINTS

Despite the lack of educational planning in the dependents school system in Europe, the schools have their good points. The system's minority studies program was described by several teachers as second to none. The school system has a strong host nation program in which foreign nationals conduct courses—complete with field trips—about the culture of their country.

Many observers, including the investigative staff of the House Appropriations Committee which evaluated the school system three years ago, have said there are many excellent teachers in the schools. In allowing each school to decide its own objectives and curriculum, Mason, director of dependents schools in Europe, clearly relied on a generally strong teaching staff to develop solid educational programs for military children. Many did.

Zee Spain, a teacher at Wuerzberg Elementary School, developed her own science curriculum, keeps a weekly record of what her pupils learn and sends a report home to parents every Friday. Her teaching methods are burdensome and take extra time, but she thinks the results are worth it.

Two teachers at Wiesbaden Elementary School, Cheryl Peterson and Suzanne Sackett, knocked out a wall in an old classroom to make two large rooms where three had existed. They worked for weeks to develop their own curriculum in every subject area.

Mornings, Peterson and Sackett's children are grouped according to their abilities for three hours of language arts and math. Afternoons, the children learn by doing. They plant seeds to see how things grow, visit a farm to learn how animals are born and inspect the sewer plant and fire station on base to find out how things work.

At first, the parents were horrified. They wanted their children at their desks reciting their lessons. But Peterson and Sackett gradually won them over. They now have a waiting list of parents who want their children in the program.

As I followed two boys down the hall at Nuremberg High School, one chortled that he had just rewritten an article out of Newsweek and handed it in as his own work. His friend said, "Bet you wouldn't try that in Miss Boerchinger's class." When I asked why not, the student said, "She's tough, man. Tough, but fair"—high praise from any 16-year-old.

Mary Boerschinger, chairperson of the social science department, said, "The first thing I tell my students when they enter this class is that everyone has the right to fail." I met lots of other teachers who seemed just as demanding.

Dr. Jerald E. Bloom, principal of Frankfurt High School, said most parents don't care about standardized tests or how the curriculum is organized. "What they care about is can they get their kids into college," he said. "And at this school, the answer is yes; we graduated 400 in June and 45 percent of them will show up at the college door." Bloom keeps a chart showing that many of his graduates are accepted at the military academies, Ivy League schools and state universities across the nation. He said, "The colleges look favorably on our students."

an unlimited number of days without penalty. When asked why, Dr. Dichard H. Coss, who until July was deputy director of the dependents school system in Europe, replied, "That's a dumb question." Asked why it was dumb, Coss said, "Well, it just is."

How naive. I found out about the lack of attendance requirements because one teacher after another complained during interviews that all too many parents yank their kids out of school for a three-week tour of the Rhine or a trip to sunny Spain.

When the students return, they won't make up the work, their parents won't make them, and there is little the teachers can do about it. In the dependents schools, promotion to the next grade is as certain as the sunrise, and the kids know it.

COMING NEXT ISSUE

As will be reported in the second of two articles about dependents schools in the next issue of the Times Magazine, the problems faced by educators, parents and students overseas do not end with poorly planned curriculums.

An investigation of the school system by the Times magazine shows that some military children go to school in veritable slum conditions and that many teachers are hampered by a serious shortage of textbooks and supplies they need to do their jobs.

In addition, the Times Magazine will explore the complaints of principals who say they cannot remove incompetent teachers from the classrooms.

We also will take a look at the high school dormitories—home to scores of military children whose parents are stationed far from the schools. And we will examine the policies and personality of Dr. Anthony Cardinale, the new director of DOD dependents schools around the world.

DEPENDENTS SCHOOLS IN EUROPE: A DIS-

crowded and that principals are unable to fire the few incompetent teachers in Europe.

In addition, our investigation found that the instructional materials that are available are distributed unfairly. Some elementary school children in Frankfurt and Wiesbaden do without the texts and workbooks that children at another school in Germany, Karlsruhe Elementary School, take for granted.

Teachers said that when school funds are exhausted or classroom materials fail to arrive, they sometimes buy supplies with their own money, depend on donations from NCO and officers wives clubs or obtain money from the European Parent-Teacher and Student Association (PTSA).

WHY CAN'T THEY GET BOOKS?

The lack of books and supplies is caused in part by long supply lines and poor coordination between the dependents school system in Europe and the Defense General Supply Center (DGSC) in Richmond, Va.

The 211 dependents schools in Europe are located in 12 countries and spread over 9.5 million square miles, an area more than twice the size of the United States. In addition, school books and other instructional materials have a low priority for military shipment to Europe. These two factors combined often are responsible for the late delivery of teaching materials to the classrooms.

Last summer, for example, 70 tons of books and supplies sat for weeks in warehouses on the East Coast awaiting shipment to dependent schools in Europe. Gen. George S. Blanchard, commander of the U.S. Army in Europe, learned of the delay in August and ordered the materials airlifted to Germany on an emergency basis. Nevertheless, some did not arrive in the schools until after classes began this fall.

Textbooks and instructional materials such

Proof, he believes, that his school is as good as any.

WHY THE EUROPEAN SCHOOLS ARE "FUN CITY" FOR STUDENTS

The dependents school system in Europe has some good programs and some excellent teachers.

But the failure of its administrators to plan and evaluate their curriculums and establish minimum standards of achievement for teachers and students has resulted in the near total absence of a science curriculum in elementary schools.

In addition, the low scorces on the English and math skills portions of the ITBS standardized tests cannot be explained away in view of intelligence test results that show dependents school system students are at least average in potential ability.

The tests are inconclusive, but they are a strong indication that school administrators should take a critical look at their educational programs.

In the past, school administrators have failed to do that. A 1970 analysis of test results showed that the ability of dependents schools pupils in grades one through eight to read and write was declining. One year later school administrators began to water down their high school graduation requirement in English so that students could take more electives they might like.

What's important to school administrators, it seems, is not what the children learn in school but how much they enjoy it.

Perhaps the school system's level of concern about academic standards is best exemplified by its attendance requirements. There aren't any. In most states, it is a law that school children have to go to school. In Alexandria, Va., public schools, for instance, students who miss more than 25 days must make up the work or stay back a grade.

But students in overseas schools may miss

ORGANIZED SYSTEM IN DANGER OF FLUNKING

(By Richard C. Barnard)

As she carefully opened the cardboard box and pushed it slowly across the table toward me, the young woman with light blonde hair, blue eyes and a doleful expression on her face said, You see, sometimes the box comes in December and sometimes it doesn't come until April or May. And when it finally gets here, you open it up and find only half of what you wanted."

She sounded like a disappointed child complaining that Santa is never good to her at Christmas. In fact, the young woman was a teacher at Frankfurt Jr. High School explaining why she often does without the materials she needs to help educate the sons and daughters of American military people.

Other teachers overseas face the same problem.

The results of THE TIMES MAGAZINE's investigation of the dependents school system in Europe indicate that its supply system operates only slightly better than its academic programs.

The school system has no educational objectives, or academic standards. As a result, many students and teachers are left to "do their own thing" in the classrooms with decidedly mixed results. The failure of school administrators in Europe to plan and evaluate their academic programs adversely affects the educational growth of military children (see THE TIMES MAGAZINE Oct. 18, 1976).

In addition, interviews with students and educators in Europe indicate that teachers often receive classroom materials when the school year is almost over rather than before it begins and that some schools frequently run out of such basic supplies as toilet paper, scissors and chalk.

The parents, educators and students interviewed by THE TIMES MAGAZINE also said that many school buildings are rundown and over-

as reading booklets and test tubes are ordered through a cumbersome four-step process. Orders placed by each teacher are sent to the dependents schools administration office in Karlsruhe, Germany. From there, they go to the Defense General Supply Center in Richmond and then to book publishers and suppliers. DGSC keeps no classroom materials in stock.

In a 1976 review of management problems in dependents schools, Christopher T. Cross, minority aide to the House Committee on Education and Labor, found that communications between the school system and DGSC "seem to be poor and apparently result in some funds being turned back because ordered equipment was not available and the schools were not told to place other orders."

In an interview with the Times magazine, Cathy Silver, a fourth grade teacher at Wuerzburg Elementary School, said that last year she ordered her reading texts and workbooks months ahead of time. The texts came nine weeks after the beginning of school, but the workbooks never arrived.

In addition to long supply lines and poor coordination with DGSC, Dr. Joseph A. Mason, director of schools in Europe, said that in late May he had received only $2.4 million for books, supplies and maintenance "instead of the $8 to $10 million normally required."

His press spokesman, Dr. Allen Dale Olson, said in September that the school system was still severely short of money for books and supplies.

However, Dr. Anthony Cardinale, director of DoD dependents schools worldwide (and Mason's boss), said the dependents schools in Europe have adequate funds to buy the books and instructional materials needed.

"I sat down with Dr. Mason and his supply people in early May," said Cardinale. "They said they needed $300,000 to cover the costs of outstanding orders for books. I released

$500,000. At the end of May, I released another $500,000. Half of that was for books."

In August, Mason received an advance credit of $1.4 million to purchase books and instructional materials for the school year that began in September, Cardinale said.

However, the dependents school system in Europe receives less money than many of the larger school systems in the States, according to a cost-comparison prepared by Cardinale's staff.

Last year, the school system's budget of about $147 million amounted to $1273 for each student. In comparison, the Montgomery County, Md., school system spent $1710 per student while Baltimore spent $1318. Arlington, Va., spent $1771 on each student, and Washington, D.C., spent $1378, according to the school system's analysis.

The cost comparison also showed that 20 of the larger school systems in the U.S. averaged $1687 per student. The school system in Europe had far less money to educate its students than many school systems across the nation."

"WE CALL IT THE BAKE SALE SCHOOL SYSTEM"

Regardless of the amount of money available this year, a shortage of books, instructional materials and supplies has long been a chroic problem for the dependents school system in Europe.

Last May, for example, lack of funds forced administrators at Illesheim Elementary School (which has grades one through eight) to cancel plans to offer a "hands on" science program in the seventh and eighth grades that involved almost daily lab work.

Frankfurt Elementary School No. 1 is one of the largest dependents schools in Europe. Yet its total budget last year for classroom materials—from textbooks to pencils—was $16,000.

"That's an example of why we call this the bake sale school system," said a teacher the Overseas Education Association, the largest teachers union in dependents schools, said, "The basic problem is the supply system here. The military supply people will let you know right quick that their first job is to support the Army's mission. The schools come second."

Though some schools in Europe sometimes run short of books and supplies, that is not true of all dependents schools. Prior to July 1, when dependents schools were unified into a single school system, schools in the Pacific were operated by the Air Force and those in Europe were run by the Army.

Several parents and educators interviewed said the Air Force provided much better support to the schools than did the Army.

Libby Pierciey, an elementary teacher in Stuttgart, said, "When I taught in Okinawa, the Air Force gave us all kinds of supplies and materials that are considered not essential in Europe. Remedial reading texts, for example, are hard to find here, but we had plenty in the Pacific."

WHY ARE SCHOOL FACILITIES SO ANCIENT?

During the winter months, the faculty and students at Nuremberg High School look like studio extras for *M*A*S*H*, the TV show about the wacky adventures of an Army medical unit in Korea.

At Nuremberg, teachers and students on the bottom floor of the school wear their overcoats in the classroom while those on the top floor open the windows to avoid heat prostration.

An erratic heating system is only one of the problems faced by faculty and students at Nuremberg High.

The hallways and classrooms are littered with trash. The electrical wiring is so bad that when one teacher plugs in a movie projector, the lights in nearby classrooms dim and sometimes go out.

The library reading room is out in the completed in 1974, the urinals were built too high for the elementary-age children.

As a result of the slow pace of construction, many dependents schools in Europe are rundown and overcrowded. Lindsey Elementary School in Wiesbaden is housed in an ancient barracks. Last year, several teachers there had 38 pupils in their classes.

The school was so crowded that some single "classrooms" consisted of two small rooms with a door in between, a situation which forced teachers to dodge from room to room in order to keep watch over their students.

Erma Hayes, a social worker at the school, said, "Don't ask me how they teach with all those kids in one little classroom. When a child in the back of the room wants to leave, you have to move the desks so he can get out. It's tragic."

Army Lt. Col. Theodore H. Taylor, chief of personnel and community affairs at Wiesbaden, said, "It's true that there were 38 kids in a class at the beginning of the year. But that was due to a shortage of teachers. We got more teachers within a few weeks and the problem was alleviated."

SOME STUDENTS LIVE IN DORMITORIES

"The facilities here are okay," said Turney Moore, chief counselor at the dormitory at Frankfurt High School. "One of the biggest problems here is that some military families arrive [in Europe] to find out they have to give up their kids for an entire year. Some of them are bitter about it and I don't blame them."

In the dependents school system in Europe, there are 10 high schools with adjoining dormitories. Students in the ninth through 12th grades who live more than one hour's commuting distance from school must live in the dorms Monday through Friday. The Army provides transportation to and from school on weekends.

However, high school students who live

at the school. "Back in the States, you sell brownies to buy uniforms for the basketball team or horns for the band. Here you do it to buy the basic stuff you need in the classroom.

"Some of the parents are wonderful, but most don't support the school. We have 1,600 kids here but only 40 or 50 parents show up at PTA meetings. Those are the people we depend on and they can give us only so much money and eat only so many brownies."

Several schools in Europe depend on donations from parents to buy library books, reading books, art supplies and underwrite the salaries of a handful of teachers and teachers' aides. At Frankfurt Elementary No. 2, money contributed by parents last year was used to pay the salary of a physical education teacher.

A sixth grade teacher at the school said, "When I walked into class last year, all I had was one set of math books. The covers were gone and some had pages missing.

"We had no reading books—none! So the kids and I decided to buy our own. We sold popcorn until it was coming out of people's ears and bought the Reader's Digest reading kit for $485."

In addition to textbooks and instructional materials, many teachers and principals interviewed said some schools occasionally run short of basic supplies.

"When I taught in Nuremberg, we got two pieces of chalk each year," said an elementary teacher. "We had no Scotch tape, no tacks and no scissors. We just didn't get the basic things you need for a classroom."

The schools buy their basic supplies at local Army supply stores, which are not always well stocked. At a few bases, military supply sergeants get first pick of available supplies and school supply clerks get what's left.

Lynne Holland, international president of hallway. Students who study there are sometimes disrupted by others who use the hall to get to art class. The equipment and tables in the library's tiny audio-visual study room are always covered with a fine layer of dirt simply because no one ever cleans them.

Nuremberg High is not typical of all dependents schools in Europe. Several of the schools are new. Six of the 14 schools I saw were clean and well-equipped. Though Karlsruhe Elementary School is housed in an older building, it is neat and well-run because the principal, Fred Mossinger, and local Army officials have worked hard to keep it that way. Five of seven teachers interviewed in that school described it as "a beautiful place to teach."

School administrators in Europe say that 80 percent of their school facilities are adequate, including Nuremberg High School, which indicates how dilapidated some schools are.

One reason why some schools in Europe are in sad shape is that the Army built no schools in the 1960's except those to replace school buildings vacated when DeGaulle kicked U.S. forces out of France. The Army still has not caught up with the demand for new school buildings despite the expenditure of $58 million on construction in the last three years.

Responsibility for the dependents schools in Europe is divided between DoD school administrators, who run the educational programs, and Army officials, who build the schools and maintain them.

One of the sillier consequences of this divided authority is that school principals in Europe have no power to tell the janitors in their own schools what to do. The janitors report to the local post facilities engineers, not to the principals.

Another consequence is that new schools are not built by the people who are going to use them, which sometimes causes problems. For instance, at Ramstein Elementary School, more than two hours commuting distance from school live in the dorms from September through June with vacations home only at Christmas and Easter. This year, about 900 of the roughly 21,500 high school students in Europe live in the dormitories.

For students in grades one through eight, the maximum commuting distance is 45 minutes. Families with grade school children who live further than that may send their children to private school at the Army's expense.

"But a problem in Germany is that there are only a handful of private schools that offer what might be called an American education," said Lee Bartley, administrative assistant to the director of DOD schools. Some grade school students who live far from school must make do with correspondence courses.

WHY INCOMPETENT TEACHERS CAN'T BE FIRED

During my interviews in Germany and England, I had a standard list of questions for the dozen or so principals I planned to interview.

And there was always one question that caused them to stop, lean toward me and say in a lowered voice: "I'll discuss that with you, but it'll have to be off the record."

The question was: "You must have a couple of incompetents on your staff—every school does. Why don't you fire them?"

Most principals said they had one or two teachers on their staffs who shouldn't be in the classroom, but that the school system's personnel rules made it impossible to get rid of them. This means that 200–400 of the 5600 teachers in Europe are viewed by principals as being incompetent.

One principal said, "To fire someone, you have to catch them doing something blatantly wrong. It has to be documented. The personnel rules, say that even when you have an obvious incompetent, you have to take a positive approach with him. You have to show that you've counseled the teacher about his shortcomings. That has to be documented too."

Most teachers acknowledged that principals have little power to fire them. A math department chairman said, "The only way they can fire me is if they get me on a morals charge."

The principal of an elementary school in Germany said that firing a teacher "is like preparing for trial. You've got to build a file on the guy. You give him a statement of charges. He gives you a rebuttal. Then there are appeal procedures all down the line. The union gets involved and the teacher may try to get the local IG [inspector general] on your back. Once you've been involved in something like that you'll never try again."

Union president Holland said, "It's not true that principals have no way to weed out incompetents. Six teachers were severed last year.

"Each teacher has a probationary period of three years. If administrators can't weed out incompetents by then, I question their ability to do their jobs at all.

"I question how much [principals] really desire to get involved in the process of evaluating and firing people. I question the quality of administrators [in the dependents school system in Europe].

"Our school system is rather unique in that you don't have to be certified as a principal in order to be hired as a principal. I would guess that 50 percent of our principals aren't certified."

The dependents school system in Europe has no certification standards for principals or teachers and keeps no record of who is certified.

Most state departments of education examine the college transcripts of prospective teachers and principals before certifying them as eligible for employment in the public schools.

Although most Stateside schools have testing programs, Europe schools do not. It is time for school administrators to provide military children a comprehensive testing program. That means, at the very least, giving aptitude tests and yearly achievement tests. Those test scores should be made available to parents, along with a clear explanation of what the scores mean.

It is time for the Army to get serious about modernizing the school facilities in Europe. In the Wiesbaden area, for example, several classes are conducted in attics and basements. Yet the Army's $25.5 billion budget this year includes a paltry $6.5 million for two elementary schools in Germany.

Parents don't have a say in how the schools are run. In Europe, the schools are organized into five school districts. The school system should have a school board in each one, with all positions elected. And perhaps there should be a big school board for all of the schools in Europe.

The boards should have authority for budget priorities. For instance, should available funds be spent for remedial reading books or remedial reading specialists? School boards also could decide on new school buildings and apply pressure on the Army and DoD to modernize existing facilities. The Army has been dragging its feet on facilities for decades.

In the States, parents have a voice—through elected school boards—in the operation of the schools their children attend. Military parents pay federal taxes which support the overseas schools. There is no reason why military parents should be disenfranchised simply because they're serving overseas.

The DoD director for dependents schools, Dr. Anthony Cardinale, has set up advisory boards. While this is a step in the right direction, it is not enough. The boards should

Administrators, the Overseas Education Association, the European Congress of Parents, Teachers, and Students, and the Department of Defense. Simply speaking, the proposed transfer is endorsed by all the parties involved.

These schools are regular American public elementary and secondary schools serving the dependents of military personnel who are stationed abroad. Their purpose is to educate American children and is not integrally involved with the mission of the Department of Defense. We believe that the 135,000 students in these schools deserve the opportunity to benefit from the great educational resources of the new Education Department. If they remain under the jurisdiction of the Department of Defense, they will continue to be isolated from the rest of the educational arena in the United States.

We do not agree with the contention by the opponents of this transfer that the DOD overseas schools will become "test tubes" for the experimentation of unorthodox teaching methods. Anyone familiar with the DOD Overseas Schools recognizes that one of the great problems with the schools has been their failure to have minimum educational standards, updated teaching material and innovative techniques for the use of the teachers. It will be the function of the new Department of Education to provide this material and these techniques for the use of these overseas schools so that they can be on a par with educational systems in the United States. The Department of Education, however, will have the authority to provide this information, not impose it on the schools. The availability of such information should upgrade the quality of education for our American children overseas.

S. 991 does not take the schools off military bases. The DOD Schools will always re-

Dr. Anthony Cardinale, director of DOD dependents schools, wants to establish new employment standards and certify teachers and principals every five years. Those who can't meet the new standards would be dismissed under Cardinale's proposal.

However, any such program must be negotiated with the union.

Holland said, "Administrators have a right to evaluate us. Our concern is the procedures they use. I'm sure we can come up with something livable."

CONCLUSIONS AND RECOMMENDATIONS

In the last two issues the Times magazine has examined the dependents school system in Europe. We found many weak areas, and a few bright spots. However, if the dependents schools intend to achieve their goal of top-quality education, they should take remedial action in certain parts of the system in Europe where quality is far short of the best.

As shown by our investigation, the dependents school system in Europe has a personnel system which promotes job security at the expense of professional competence in the classroom. The schools system should adopt new employment standards. It also should institute a certification program for teachers and principals.

The Europe schools system has no core curriculum in the basic academic skills. It has no minimum standards of achievement for teachers or students. And it has no systematic way to check on what kind of job each of the 211 schools is doing. One result of this is the appalling fact that teachers and principals in Europe do not have the slightest idea of how well (or poorly) their high school seniors can read.

It is time for school administrators to develop an administrative framework that encourages good teaching. And that means a core curriculum in the basic academic skills, such as reading, that every child needs, regardless of his or her life's goals.

be policymaking, not advisory. Parents should have a say in how money is spent. Money is power, and Cardinale controls the money, and the power.

Dr. Joseph A. Mason, chief of dependents schools in Europe, says parents have a voice in their children's education because they are allowed to sit on curriculum developemnt committees in most schools. But the practice is different from his pronouncements.

Most parents don't know about the curriculum development committees. And in some schools—London Central High School, for example—parent-members can come to committee meetings but they have no vote.

The dependents schools in Europe have come a long way since the postwar days of converted barracks and pioneer hardships. But when compared to many community school systems in the States, the dependents schools are an embarrassment.

Military children deserve better.

Mr. RIBICOFF. Mr. President, I also ask unanimous consent that a letter to our Senate colleagues from Senators Henry Jackson and Sam Nunn of the Armed Services Committee be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on Armed Services,
Washington, D.C., September 26, 1978.

Dear Colleague: We want to communicate to you our opposition to the Schmitt Amendment (No. 3620) to the Department of Education bill (S. 991), which would delete the transfer of the Department of Defense Overseas Dependents Schools to the new Department.

This transfer was unanimously supported by the full Committee on Governmental Affairs and is supported by the Overseas School main an important part of the military community, and it is unrealistic to assume that, as a result of the transfer, parents would take their children out of the only American school in a foreign country. We share the support of the European PTSA for the transfor on the grounds that the schools will fare much better in an agency whose main concern is education.

Finally, transfer of these schools will not make the provision of logistical support more difficult. Interservice support agreements already exist within the Department of Defense between the three Departments of the Navy, Air Force and Army, and they are working well. After the transfer, the same kinds of relationships would continue. Agreements would be worked out between a Cabinet Secretary of Education and three subcabinet secretaries in DOD, thereby improving and elevating the working relationship. Further, the DOD Schools are gradually building up their own support staff and in the near future will become self-sufficient.

We believe that the students in the DOD Overseas Dependents Schools could best be served by the new Department of Education. We hope you will join us in opposing the Schmitt Amendment and in supporting the transfer of this important school system to the new Department of Education.

Sincerely,

Sam Nunn,
Henry Jackson,
Senator McIntyre.

Mr. RIBICOFF. The legislation before us today provides for a 3-year phase-in period, so that the schools can be transferred with little disruption. The bill requires the Secretary, in the 3-year phase-in period, to make recommendations for increasing parent, teacher, student, and military participation in the schools' operation and administration.

S. 991 also provides for an administrator and an Office of Education for overseas dependent children at executive level V, reporting directly to the Secretary of Education. This will insure a minimum of red tape and a maximum of high-level attention to the schools.

Mr. President, I would hope the Senate would concur with the unanimous recommendation of the Governmental Affairs Committee that the DOD dependent schools be transferred to the Department of Education.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIBICOFF. I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, with regret, I also must oppose the amendment offered by the distinguished Senator from New Mexico (Mr. SCHMITT) to delete the transfer of the Department of Defense's overseas schools for dependent children. Neither I nor the rest of the committee were persuaded that these schools should continue to be run by the military. These are regular American elementary and secondary schools. The students are the same as students attending schools in any school district in this country. The only difference is that, since they are the children of parents who are serving in the military overseas, their classrooms are located overseas. Other than that, the curriculums, teachers, and other aspects of education are

The Members of this Congress, and the people of the United States, do not expect the Department of Defense to make as one of its chief goals the efficient and productive operation of the nation's twelfth largest school district. Nevertheless, it is exactly for that reason that our system does not maintain the quality level of education that it should. And it is exactly for that reason that our system should be moved into a Department whose primary goal is education.

Problems such as the ones cited by Mr. Moore illustrate the need to transfer these schools. Another problem which I would like to mention is the transition of the Overseas Dependents Schools' students to schools back here in the States. The terms of duty for many military personnel is 3 years. As a result, there is considerable movement between the overseas dependent schools and schools here. One of the problems which the committee was told about was the difficulties which students make when they go through this transition between schools. It is important that these students be given a sense of continuity. By placing jurisdiction for these schools with the new Department of Education, the resources available to schools here in the States would be much more readily available to the schools overseas.

Educators, not military personnel, are better equipped to run a school. Educators should be running the overseas dependents schools. Unfortunately, too often untrained military personnel have too much authority over how these schools should be run. For those reasons, of DODDS into the Department of Education.

During the hearings on this legislation, a question was raised regarding logistical support from DOD for a Department of Education organization. Our General Counsel pointed out that for two years DODDS has been separate from direct control by the military departments. Logistical support has been provided through interservice support agreements. The Director of DODDS concurred that support has been equal if not superior to past direct support arrangements. Therefore, any potential logistical support problems are already being resolved and should not be considered a negative factor in considering this transfer.

It is our sincere hope that you will support the transfer of DODDS into the Department of Education, and vote against the Schmitt amendment to S. 991.

Sincerely,

HAL MOSHER,
President.

Mr. SCHMITT. Mr. President, I realize and have attempted to understand the position and belief of the distinguished Senator from Connecticut and the distinguished Senator from Illinois, but I literally fail to see, admitting the troubled history of these schools, how putting them in another bureaucracy will change that, particularly a bureaucracy that is going to have the problems of transition, the problems of creating itself and of dealing with everything else it is almost certainly going to have to deal with in education, including competing demands, and also somehow take over the management of the 11th largthe same.

I would in particular like to bring to the attention of my colleagues the testimony given to the committee by the Overseas Education Association. This organization represents the 7,000 teachers who teach in the overseas dependents schools. In his testimony, Carl D. Moore, executive director of the organization, states:

> Our teachers have long felt that important educational policies have been inhibited, ignored, and misconstrued by a bureaucracy whose expertise and objectives are not educationally oriented. Important education concepts, already widely accepted in public school systems in the States, are often difficult to realize even when the Association, teachers and the DODDs administration support them. We cannot help but believe that our system will improve and prosper if it is nurtured in an environment dedicated to education.

Mr. President, I am happy to yield to our distinguished colleague from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Hazel Elbert of my staff be accorded the privileges of the floor during all stages of the consideration of this legislation.

The PRESIDING OFFICER. This date?

Mr. BARTLETT. This date.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, Mr. Moore's comments should not be regarded as an effort to find fault with the Department of Defense. I continue quoting from his testimony before the committee:

Mr. President, I urge my coleagues to vote against this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that I have received from Hal Mosher, president of the Overseas Education Association, Inc., dated September 25, 1978, in support of the position that the managers of the bill have taken.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OVERSEAS EDUCATION
ASSOCIATION, INC.,
September 25, 1978.

Hon. CHARLES PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: It has come to our attention that Senator Schmitt is planning to introduce an amendment to S. 991 to eliminate the Department of Defense Dependents Schools (DODDS) from the bill.

Our Association holds exclusive national recognition for the 7,000 teachers in the DODDS system. We believe the members of the armed services stationed overseas deserve the best possible educational program for their children, and this can be achieved only if education is recognized as the highest priority. The teachers in our system strongly believe that education does not receive the priority consideration within the Department of Defense that it would in the Department of Education. Our view is obviously shared by the military parents inasmuch as the European Parent-Teacher-Student Association enthusiastically supports the transfer of DODDS into the Department of Education. Our informal polls also indicate that most of the school administrators support this transfer. The parents and professional educators involved in the system are almost unanimous in their support of the transfer

est school system in this country or associated with this country, and to do this in association with another bureaucracy—and anyone who has been associated with the military certainly cannot claim it is not a bureacracy. Even the Office of Management and Budget says it is best to work out the problems of the overseas schools within the Department of Defense rather than by transferring them to another department.

I am sorry that the distinguished Senators have not dealt more specifically with how they expect this belief to be realized. I am willing to say that in 2 or 3 or 4 years, after the Department is up to speed, if it is in fact created, and I guess there is some doubt about that, but let us assume it will be created, we might then examine this problem and see whether or not the Department of Defense has solved its problems with the overseas school system, or whether, in the view of a functioning Department of Education, they could be better solved in that group.

I just fail to see how anything worthwhile is going to be realized in that school system, that very special school system, by its transfer into the Department of Education.

I would also remind my colleagues that another group, admittedly smaller, but another group representing about 2,000 teachers within the overseas school system, that is, the Overseas Federation of Teachers, associated with the American Federation of Teachers, AFL-CIO, have come to a different conclusion. That is not a large group, but it is a significant minority, and if the situation is anything like I find in this country, the rank and file of the teacher organizations that support the creation of a Department of Education are not necessarily as strongly in favor or even in favor of its creation. I find that there is really only one organizational group that is strongly in favor of this particular measure, and that is the NEA.

I remind my colleagues that there is a great tendency in the NEA to become, or to attempt to become, an elitist, special-interest group for "education," and it is a special interest that I personally believe goes counter to the long-term educational interests of this country, which comes from the diversity of our educational system and its ability, in turn, to tap the diversity of the American people through local control.

I am tremendously troubled by this creation, now, of a Federal school system specifically within a department of education. Obviously the overseas school system is a Federal school system, but it is not under the control, the Cabinet-level control, of a vested interest in education. It is under the control of the vested interest of the Department of Defense, and in fact its schools are run with that vested interest in mind. I have tried to describe what that interest is; it is a legitimate interest, in this Senator's opinion, and one which best serves the students of that school system.

Mr. President, if the distinguished chairman of the committee is willing to yield back the remainder of his time, I would be happy to yield back mine.

to another. After carefully considering all sides of this issue, I have determined that the DOD overseas dependent schools could function more effectively and provide a better qualify education to the children of our military personnel if their administration were moved to the Department of Education. I support this transfer for the following reasons:

First. There are approximately 135,000 students in 267 DOD dependents schools scattered across 24 different foreign countries. The fiscal year 1979 budget estimate for the schools is $307 million. Altogether, there are approximately 10,000 employees in the school system. Despite the fact there is so much money involved and so many children whose education is dependent on these schools, there is no statutory authority for the schools. In more than 30 years of their "temporary" existence, the DOD schools' authorization has been contained in appropriations bill. S. 991 provides, for the first time, a statutory base for these schools.

Second. Although I firmly believe that the future of our military personnel's children is vitally important, I recognize that the Department of Defense and the congressional Armed Services Committee do not give these schools the attention they deserve. This is not a criticism of DOD or the committees. It is perfectly understandable that the administration of these schools is not the primary function or the No. 1 priority of the Department of Defense or the Armed Services Committees of the House and

demic facilities and other Federal programs which could benefit the schools. The children of our Nation's military personnel should not be deprived of participation in these programs just because their families are stationed overseas.

Fifth. There would be no disruption in the operation of these schools during the transition. This legislation provides for a 3 year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. Also, section 505(A) of the bill insures that the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer. Also, the committee report recommends that the Secretary of Education investigate the practicality and feasibility of the creation of a board or commission, made up of parents, students, educators, school administrators and the military, which could assume some measure of input over operation and policy responsibilities for the school system. Such a board would facilitate logistical support by including military personnel as members to insure cooperation by the various armed services and the local base commander. The board could also serve as an effective insulator to minimize the direct involvement in the future of the schools by the Secretary of Education.

Overall, I believe that the language which was included in the bill will provide a sound, workable administration

Mr. RIBICOFF. The Senator from Georgia wishes to make some remarks; then I will be prepared to yield back the remainder of my time.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I will move, at the proper time, to table the amendment. I ask for the yeas and nays on the motion to table.

Mr. NUNN. Mr. President——

Mr. RIBICOFF. I will not move to table now but I ask unanimous consent that I may now ask for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on such a motion at this time? Without objection, it is so ordered.

[illegible] there a sufficient second? There is [illegible]cient second.

[illegible] yeas and nays were ordered.

Mr. NUNN. Mr. President, I rise in opposition to the amendment by Senator SCHMITT that would delete from S. 991 the transfer of the Department of Defense overseas dependents schools. I do this from a unique position of being a primary sponsor of S. 991, a member of the Governmental Affairs Committee who chaired hearings on this particular aspect of the bill, and a member of the Armed Services Committee.

It is always a difficult decision to move certain programs from one department

the Senate. Under this legislation, the overseas defense schools will be administered by a level 5 official in the new Department of Education who will report directly to the Secretary. This high level official will provide these schools with more attention and oversight than they have received in their 30-year history. I believe that such attention will improve the quality of the schools and will make a positive difference in the minimum educational standards, acquisition of pertinent educational supplies and the availability of knowledge into new trends and methods of teaching.

Third. The inclusion in a new Department of Education will also facilitate the transition for these students, who are temporarily overseas and away from our Nation, into our public school systems. Since military families are subject to frequent moves, we should strive to provide a sense of continuity in education for these students. The Department of Education would be more attuned to the trends in American public education than the Department of Defense and could provide valuable assistance to the school administrators in sensing, adjusting and responding to these educational trends.

Fourth. The Department of Education could also bring to these overseas schools the vast educational resources which will be available to schools throughout this Nation. The Department of Education can make strong efforts to encourage the participation of these overseas schools in vocational educational programs, services for the education of the handicapped, gifted children, library and aca-

for the DOD overseas schools. Because of their unique role in educating the children of American military personnel stationed overseas, these schools will, of necessity, be administered by a Federal agency that is far removed from the actual operation of the schools. The quality of education offered these students will receive a higher priority in the proposed Department of Education than it presently does in the Department of Defense.

This proposed transfer is not only endorsed by the Senate Committee on Governmental Affairs. It has the strong support of the administration, the Department of Defense, the Overseas Education Association, the majority of the overseas school administrators and the European PTSA. The need for this change is perhaps further emphasized by the fact that this is probably the only transfer in this bill that is fully supported by all affected parties.

I believe that the aforementioned consensus that these student could best be served by the Department of Education is a fair assessment of the needs in the overseas dependent schools, and I urge the Senate to reject the Schmitt amendment and support the transfer.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. SCHMITT. Mr. President, the Senator may want to withhold that.

Mr. President, I am still very greatly troubled by the litany of beliefs that we have heard in support of not only the bill as a whole but particularly in opposition to the amendment of the Senator from New Mexico relative to the transfer of the overseas dependent school system to the Department of Education. Where I have tried to list those factual situations where difficulties more than likely will occur, we have not seen in this debate, at any rate, the rebuttal of why those difficulties will not occur, except the belief that they will not occur. Again, I think that at least a postponement of the inclusion of the overseas dependent school system in the new Department of Education, if it is in fact created, would be the much wiser path to take.

In a measure, I believe, before the other body of the Congress, it is proposed to give statutory authority to the overseas dependent school system. I see no reason why that should be any kind of an argument against my amendment whatsoever. That can be done. Congress can do that at any time. Much more serious, I believe, is the basic constitutional intent. I will not say that a transfer necessarily is unconstitutional. I am not a constitutional lawyer. I would be on very tenuous ground to say that. But I would say that the lack of mention of education in the Consitution, along with the reservation of powers to the States, strongly suggests to this Senator that there was never any intent by the Founding Fathers nor any intent subsequently, through recent decades, to have the Federal Government involved in any significant way in the policymaking, in the administration, or other activities of the educational system of this country.

There is one unassailable fact, that if the overseas dependent school system is

Mr. RIBICOFF. Mr. President, I move to table the amendment. I believe I have already asked for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The Chair was waiting for the motion to be laid before it.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. McINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), Senator from Idaho (Mr. McCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The result was announced—yeas 65, nays 23, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—65

pend until Senators cease conversations and take seats.

The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Carol Minton of Senator BUMPERS' staff be granted privilege of the floor during consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I believe that under the agreement, I am to be recognized for the next amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct, and the Senator from New Mexico has been recognized.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield to the Senator from Washington, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I am going to vote for this bill for several reasons, but one of the main reasons is that I happened to handle the very complex Labor-HEW appropriation bill, a big, complex department——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order, and we will not proceed until the Senate is in order.

Mr. MAGNUSON. I said that I was for

transferred to the Department of Education when it is formed, the Federal Government will be in the business of operating a school system, and a large school system.

It has been said that the administration favors this transfer. The favors of the administration are very often transient. Not long ago, the OMB, as I have already read into the Record, opposed it. The Department of Defense has opposed it in the past. They now give not strong support as suggested by the Senator from Georgia, but I would say very lukewarm support for this proposal, and I think it may well be provided under duress.

I do not think the majority of the American people have any desire whatsoever to have the Federal Government operating a school system as large, or any size but certainly not one as large, as that which is going to be transferred under S. 991. As a matter of fact, just this morning I inserted into the Record a poll taken recently that indicated 45 percent of the American people opposed the Department of Education in general, and only 40 percent supported it.

Anybody who believes that we are dealing with some strong national consensus, or even a consensus, among the military personnel of this country that the Department of Defense overseas dependents schools should be included in a Department of Education is just fundamentally wrong.

If the Senator from Connecticut has no further need of his time, I yield back the remainder of my time. I urge the rejection of his tabling motion and I urge the adoption of my amendment.

Bartlett
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield,
  Paul G.
Hathaway
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Sparkman
Stafford
Stevenson
Stone
Talmadge
Weicker
Williams
Zorinsky

NAYS—23

Byrd,
  Harry F., Jr.
Cannon
Curtis
Eastland
Garn
Goldwater
Griffin
Hansen
Hatch
Hayakawa
Helms
Laxalt
Lugar
Morgan
Packwood
Roth
Schmitt
Scott
Stennis
Stevens
Thurmond
Tower
Wallop

NOT VOTING—12

Abourezk
Allen
Anderson
Baker
Bayh
Haskell
Hatfield,
  Mark O.
Johnston
McClure
McIntyre
Pearson
Young

So the motion to lay on the table amendment No. 3620 was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order. The Senate will suspend this bill for many reasons. But one of the main reasons—I think the distinguished manager of the bill understands what I am talking about—is that Labor-HEW is a great, big, complex organization. It is almost bigger than the Defense Department.

They now have 1,144,000 people employed, for whom the Federal Government pays. Within that Department, they have the problems of education.

For housekeeping purposes alone, if that were the only consideration I had, I would vote for this bill. No one knows better what I am talking about than the distinguished manager of the bill, the Senator from Connecticut, who was Secretary of HEW.

The removal of education from this big, complex department is going to do a great job, I think, not only for housekeeping, but also, it is going to save money; it is going to put education where it should be—by itself, independent. It probably never should have been there to begin with.

I just wanted to make that statement as one of the reasons why I am for this bill. There are other reasons, also.

Mr. RIBICOFF. Mr. President, will the Senator yield on my time?

Mr. SCHMITT. I am happy to yield, on the time of the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, when I came to the Senate in 1963, the first conversation I had in this body was with the distinguished Senator from Washington. He said to me:

> Abe, you're out of HEW and you're now in the United States Senate. Please help me get education out of HEW.

I said:

> Warren, I can tell you that from the first week I was in HEW, I felt that education did not belong there.

HEW was and has become a bureaucratic monster. It is impossible for them to handle all the constituencies affected by it.

We are the only country in the world that puts together in one department health, education, and welfare.

Mr. MAGNUSON. And labor.

Mr. RIBICOFF. What is very interesting is that in a period of 12 years, we have had 13 different Commissioners of Education. A Commissioner of Education goes in HEW with stars in his eyes, feeling he is going to do something for education; and he is so closed in and inundated by the bureaucracy that nothing happens with education.

We are spending billions of dollars for education, and we really are not giving the taxpayers of this country or our children what they should be getting from the taxpayers' money.

In 1963, I introduced a bill for a Department of Education. I felt then and all these years that the time has come, and the time is now, to give the children of this country, a Department of Education to help them, not hinder them, because education has been deteriorating in this country.

Mr. MAGNUSON. I thank the Senator.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. SCHMITT. Mr. President, I yield to the Senator from Alaska for the purpose of his moving in sequence ahead of

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, strike out lines 3 through 7.

On page 51, beginning with the word "programs" on line 3, strike out through the word "individuals" on line 6 and insert "certain programs relating to the education of Indians, Alaskan Natives, and Aleuts".

On page 56, line 8, strike out "section 304" and insert "section 303".

On page 56, beginning with line 15, strike out through line 13 on page 58.

On page 58, line 16, strike out "Sec. 212." and insert "Sec. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "Sec. 213." and insert "Sec. 212.".

On page 60, line 4, strike out "Sec. 214." and insert "Sec. 213.".

On page 60, line 12, strike out "Sec. 215." and insert "Sec. 214.".

On page 66, line 2, strike out "Sec. 216." and insert "Sec. 215.".

On page 75, strike out lines 7 through 24.

On page 76, line 3, strike out "Sec. 304." and insert "Sec. 303.".

On page 77, line 14, strike out "Sec. 305." and insert "Sec. 304.".

On page 78, line 12, strike out "Sec. 306." and insert "Sec. 305.".

On page 78, line 21, strike out "Sec. 307." and insert "Sec. 306.".

On page 79, line 3, strike out "Sec. 308." and insert "Sec. 307.".

On page 79, line 12, strike out "Sec. 309." and insert "Sec. 308.".

511. through Sec. 513. as items Sec. 510. through Sec. 512., respectively.

Mr. STEVENS. Mr. President, I ask unanimous consent that Paul Cooksey, of Senator SCHWEIKER's staff, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, will the Senator yield for a similar request?

Mr. STEVENS. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Polly Gault, Carol Minton, Michael Maloof, and Mary Ann Simpson have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, for the information of the Senate, I presented this statement and had a discussion with the manager of the bill last week.

We have 40 minutes on each side. It is my hope that we can agree to have a vote at 6:30, because there are two committee meetings scheduled to start at 7.

I would like to vote on this amendmen at 6:30, and we would enter into an agreement to share the time, if the manager would agree.

Mr. RIBICOFF. It is satisfactory to me.

Mr. GOLDWATER. I have spoken at great length on this. I would like to offer a few words.

Mr. STEVENS. I will reserve 5 minutes of my time for the Senator from Arizona.

my next amendment and to offer his amendment relative to Indian education.

The PRESIDING OFFICER (Mr. RIEGLE). The Chair will recognize the Senator from Alaska as soon as we have order in the Chamber. I ask the Senator to suspend for a moment.

Mr. STEVENS. I thank the Chair.

Mr. PRESIDENT, I ask unanimous consent that the order for presentation of my amendment be changed so that it will follow the first Schmitt amendment and that his two other amendments follow the vote on my amendment which would then become pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3588

(Purpose: To eliminate the transfer of Indian education programs from the Secretary of the Interior to the Secretary, and for other purposes)

Mr. STEVENS. Mr. President, I call up the amendment again.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 3588.

The amendment is as follows:

On page 48, strike out line 1.

On page 48, line 2, strike out "(C)" and insert "(B)".

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 82, beginning with line 23, strike out through line 12 on page 83 and insert the following:

"(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.".

On page 86, between lines 9 and 10, insert the following:

"(J) Office of Indian Education;".

On page 86, line 10, strike out "(J)" and insert "(K)".

On page 86, line 11, strike out "(K)" and insert "(L)".

On page 87, strike out lines 9 and 10.

On page 87, line 11, strike out "(4)" and insert "(3)".

On page 87, line 14, strike out "(5)" and insert "(4)".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 107, beginning with line 20, strike out through line 15 on page 112.

On page 112, line 18, strike out "SEC. 511." and insert "SEC. 510."

On page 113, line 2, strike out "SEC. 512." and insert "SEC. 511.".

On page 113, line 19, strike out "SEC. 513." and insert "SEC. 512.".

On page 40, in the table of contents, strike out item Sec. 211. and redesignate items Sec. 212. through Sec. 216 as items Sec. 211 through Sec. 215., respectively.

On page 40, in the table of contents, strike out item Sec. 303. and redesignate items Sec. 304 through Sec. 309, as items Sec. 303. through Sec. 308., respectively.

On page 41, in the table of contents, strike out item Sec. 510. and redesignate items Sec.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

Mr. STEVENS. Will the Chair inform me when I have 5 minutes remaining, so that I may yield that time to the Senator from Arizona?

The PRESIDING OFFICER. The Chair will do so.

Mr. STEVENS. Mr. President, I am pleased to say that Senator JACKSON, who has been the chairman for many years of the committee having jurisdiction over Indian affairs, as well as Senator GOLDWATER, Senator YOUNG, Senator CHILES, Senator ANDERSON, Senator BARTLETT, Senator CHURCH, Senator HUMPHREY, Senator HANSEN, Senator BURDICK, Senator GRAVEL, Senator MATHIAS, Senator McCLURE, Senator HAYAKAWA, Senator STONE, and Senator MORGAN support this amendment and are cosponsors of it.

With a few exceptions, we represent Indian country, and we have been asked to speak for the Indian people who, if they were here, would plead with Senators not to transfer the functions of the Bureau of Indian Affairs to the new Department of Education without their consent.

Last week, the National Congress of American Indians, representing 143 tribes, met at Rapid City, S. Dak. They unanimously—I repeat, unanimously—passed a resolution in support of this amendment.

In addition, the National Indian Education Association, the American Indian Higher Education Consortium, the Coalition of Indian Controlled School Boards, the American Indian Scholarships, the Association of American Indian Physicians, and the Governors' Interstate Indian Council all are on record, as well as the National Tribal Chairmen's Association, which represents 190 tribal chairmen, in asking us to present this amendment and to secure its adoption in the Senate.

I could repeat all the arguments that have been made; but, for myself, the argument that makes the most sense is the one they presented themselves when I chaired the hearings of our committee on the subject.

They told me:

> Self-determination and the Educational Assistance Act have not been in place long enough for us to make the progress that should be made on our own in managing and controlling our own destiny.

They asked me for additional time before their programs are combined with those of the Department of Education. It is not a position that says that they would never consent to merging the functions of Indian education with the Department of Education.

They say that if self-determination means anything, the Indian control over Indian issues, on which we promised we would listen to them, then the whole spirit of self-determination, will be violated if Congress does not listen to them as they represent their people in telling us they do not support this move.

The chairman, I am sure, will say there has been consultation. Yes, we sent

Mr. GOLDWATER. I thank my friend from Alaska.

Mr. President, what we are dealing with here are not children of families that speak English. In fact, what very few of us realize is that there are 400 Indian tribes living in the continental United States and there are 300 more living in the State of Alaska. The great majority of these tribes still speak their native tongue.

In my State where 20 percent of all the Indians of America live, we have 15 different tribes who speak three different basic languages.

This is a problem that we are not faced with in the non-Indian or white man schools where they speak a common language, but that is only the beginning, Mr. President.

They not only speak a language that is completely and absolutely foreign to us or any of our academics, I know of only two Indian languages that are being taught in this country, and it is virtually impossible to learn one of them.

On top of that, Mr. President, we have their culture, and I have to say this sadly. For many, many years it was one of the purposes of the BIA to try and convince the Indians that their culture had to go. We have been successful, I have to say, in the last 10 or 15 years in convincing the Bureau of Indian Affairs that Indian culture is probably the only basic culture we have in this country.

I do not care whether you live in Maine or California or Texas or North Dakota, done. But I do not have the kind of respect for the National Education Association that many people do. I do not think that education in the primary schools of our country has improved one bit under the Department of Health, Education, and Welfare. I think it has gotten worse. I do not think there is a country in the world that has a worse system of education to educate their young people in the elementary levels than we have today.

I do not want to see my Indians turned over to a group like that. I know it sounds good to turn all of these children, regardless of their background, over to one educational system. I would much rather as one individual have something to say about the education of my grandchildren at the elementary level. I do not want somebody sitting back here 2,500 miles away in the city of Washington describing the kind of a teacher or the kind of books or the curricula that my grandchildren are going to have to put up with in Arizona and California.

I would like to see us doing it the old-fashioned way, and I will guarantee you when I went to grammar school I was not the brightest thing that ever came around the post, but, by golly, I learned how to write and read and get 2 and 2 to come out 4.

Today what do we find in our colleges? Almost every college in America has a noncredit freshman class to teach students who graduated from high school how to read, write, and add. And yet we want to make a Department of Educathem questionnaires. He will say, and others will say, there are important Indian people who support the bill and oppose my amendment. That is true. But the overwhelming majority of those who are elected to represent Indian people in their councils and in national organizations support this amendment and pleaded with me as a representative of our committee when just by chance I was selected to chair the hearings that day. I committed to them that I would present this amendment and I would urge the Senate to listen to them as elected representatives of the Indian people in their plea to Congress not to do this, not to transfer the Indian functions of education to the new Department of Education without their consent.

I would be pleased to answer any questions any Member of the Senate might have on this issue, but, as I said, for myself it is a matter of representation. The people, the Indians and the Alaska Natives have elected to represent them in their councils and to come and present their views to Congress did come and they almost without exception—stated to the committee on the record, and have communicated with us since this amendment was filed, the overwhelming mandate they have from the Indians and Native people of the country to oppose this transfer at this time.

I hope the Senate will listen to these people who have been elected to represent those of our citizens who are of Indian or Native descent.

Let me yield to my good friend from Arizona. I am proud to have his support on this amendment.

the Indians were here first, and the culture that they developed is still the basic culture that affects our lives, affects the names of our States, the names of our citiees, and the names of our streets. It is the culture that has developed the beautiful artifacts that we now find almost impossible to buy on the market, the culture that is making it possible for Indians to make a decent living now and it is becoming more and more so.

Then we have the matter of religion. This is something we do not have to put up with with our children. As to our white children, when they go to school, be they Gentile or Jewish, regardless of the religion they are following, the education has no bearing on it. They do not try to influence them.

However, for years it was the effort of the Bureau of Indian Affairs to convince the Indian family that our God was better than theirs. Now, thank that same God, we have been able to convince the BIA that this is bad

I am not convinced that an educational organization such as is being sought here would not go right back to the ideas of the BIA because we do not have enough experienced people in the National Education Association. I do not know one of them who would not have a hard time telling an Indian from a white man.

So I am for this Stevens amendment, representing as I do 20 percent of the Indians in this country. It is not that I am standing up here and saying that the Bureau of Indian Affairs has done a fantastically good job in education. They have done a bad job. In fact, it would be hard to conceive of a worse job being tion. Frankly, I would like to do away with any Federal education.

If we are going to give the money, write out a check and send it to the Governor and say, "This is for education." But do not send along a lot of bureaucrats who do not know anything about it to tell the people in our States how to spend it.

And that is particularly true in an area where we are just beginning to know something about what these Indians want in the way of education. They want to learn English. But they do not want to be told that English is the language that they have to use.

They want to learn Apache, they want to learn Hopi, they want to learn Navajo, and at the same time learn English.

They want to be taught about their culture. We have classes out in my State now that will teach a Navajo girl how to weave a blanket, one of the most beautiful basic cultural arts in this country, and yet the BIA was trying to tell them they should not waste their time weaving blankets; they ought to be doing something else. What, I do not know.

The PRESIDING OFFICER. The Senator's time has expired.

lieve there is another Member of this body who has been devoted and so involved with the problems of Indians. I quote:

> There is not an Indian in this country who can honestly say that the BIA has been sufficiently responsive to the educational needs of Indian people.
>
> For the past 130 years, the BIA has failed miserably in providing Indian people with a quality education. I have no reason to expect that it will ever make any real effort to improve Indian education.
>
> The proposed transfer does not represent a long-term attempt to dismantle the BIA. Nor will such a transfer change the special relationship between the government and the Indian tribes and Indian people in any way.
>
> I believe that S. 991 protects the interests of Indian people and represents a sincere effort by the Federal Government to improve the quality of Indian education in this country.

Mr. President, I ask unanimous consent that the letter of Senator Abourezk, dated September 26, 1978, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., September 26, 1978.

Dear Colleague: Within the next few days the Senate is expected to vote on final passage of S. 991, the Department of Education Bill. S. 991, as reported by the Senate Governmental Affairs Committee, provides for the transfer of both HEW's Office of Indian Education and the education functions of the Department of Interior's Bureau of Indian Affairs (BIA) into the proposed Department of Education.

DEPARTMENT OF EDUCATION ORGANIZATION OF 1978

The Senate continued with the consideration of the bill.

Mr. RIBICOFF. Mr. President, Indian education in this country is a mess. The achievement rates of Indian students are below the national average. Dropout rates for Indian children at the elementary and secondary level exceed 50 percent. Dropout rates for Indian students in posteducation institutions exceed 75 percent.

I would like to read from a letter sent to all our colleagues by Senator ABOUREZK who is chairman of the Senate Select Committee on Indian Affairs. I do not be-

Currently pending is an amendment by Senator Stevens which would delete the transfer of Indian programs out of the BIA in the Department of the Interior into the newly created Department of Education.

My position on this amendment represents one of the most difficult decisions I have made since I have been in politics. As Chairman of the Senate Select Committee on Indian Affairs, my policy has always been to attempt to accomplish legislatively what the tribes have indicated they want done to further their progress toward self-sufficiency. This marks the first time that I have significantly departed from that policy.

As you are aware, a great many of the Indian tribes—not all of them, but a great many—are opposed to the transfer of Indian education functions out of the BIA. The relationship of the Indian tribes and the BIA is a kind of love-hate relationship. In fact, the tribes severely and vehemently dislike the BIA and the patronizing attitude and manner with which the BIA treats tribes and Indian people. Yet, they are protective of the BIA because they feel that it is all they really have. There is not an Indian in this country who can honestly say that the BIA has been sufficiently responsive to the educational needs of Indian people.

Without doubt, the quality of educational programs being offered to Indian children today is simply and unjustifiably bad. There is no comprehensive Federal strategy for Indian Education. Under existing policy, there is a Deputy Commissioner for Indian Education in the Office of Education in HEW and a Director of Education in the BIA—with little or no coordination between the two. Since 1966 the average tenure of the Director of Education in the BIA has been nine months.

For the past 130 years, the BIA has failed miserably in providing Indian people with a quality education. I have no reason to expect that it will ever make any real effort to improve Indian education. No amount of in-house reorganization in the BIA will ever correct the severe institutional deficiencies which thwart the delivery of effective educational services. Clearly, the BIA's record over the past 130 years does not warrant maintaining educational programs in that agency.

The proposed transfer does not represent a long-term attempt to dismantle the BIA. Nor will such a transfer change the special relationship between the Government and the Indian tribes and Indian people in any way.

The goal of S. 991 is to improve the delivery of educational services to Indian people, while maintaining these special relationships. It is my sincere hope that by placing the various Federal educational programs in one Department, the Congress will for the first time mandate a comprehensive and responsible approach to the delivery of Indian education services.

As someone who has been active in Indian issues for a great many years, I take particular interest in this piece of legislation. I believe that S. 991 protects the interests of Indian people and represents a sincere effort by the Federal government to improve the quality of Indian education in this country. It is for these reasons that I urge you to support S. 991, as reported by the Senate Governmental Affairs Committee, with the improving Dominici amendments, and to oppose any efforts to delete the transfer of Indian education programs from S. 991, the Department of Education Bill.

If you have any further questions or need any additional information on this matter, please feel free to contact Mimi Mager of my staff (45852).

Sincerely,

James Abourezk,
Chairman, Senate Select Committee

great responsibility in the Senate, if we do move Indian education into the Department of Education to oversee, to make absolutely certain that very high priority is placed on Indian education by the Department of Education, and that we do not have a continuation of the abysmal situation we now have.

For these reasons, and the reasons I have previously given, I do oppose the amendment offered by our distinguished colleague.

Mr. RIBICOFF. Mr. President, I yield the remainder of my time to the distinguished Senator from New Mexico.

Mr. GOLDWATER. Mr. President, will the Senator yield so that I might answer one small point the Senator has made?

Mr. DOMENICI. Surely.

Mr. GOLDWATER. Mr. President, the figures the Senator from Illinois has used are correct. But you have to look at the basic problem. The largest Indian tribe in this country is the Navajos. Almost 22 percent of all the Indians we have are Navajos. They are a semi-nomadic people. They do not live in towns. They live in little groups, family groups, maybe 10 or 12 people.

It may be 150 miles to the nearest school. This is the problem you have in Chicago, we have in Phoenix, you have in Los Angeles. When an Indian leaves the reservation and you say he is not educated, it is virtually impossible under any system to get these children to go to school, No. 1. The families need them to herd the sheep; they need them to pick the piñon nuts, so they grow up to be

My Indian people are saying, "So long as you protect certain rights that are ours, the trust relationship, the fact that there will be Indian preference, the fact that Indians ought to be involved in advising, the fact that there will be a department or a special arm of this new department that will help with Indian education," they say, "we cannot lose."

The reason they say it is because things are not working now. I know the good Senator, Senator Ribicoff, had the same problem on Indian health. At some point in American history we decided that the way to help our Indian people was to have a Bureau of Indian Affairs, and then as delivery systems evolved in this country we put them all under this Bureau, so we had them delivering health when they did not know anything about health.

We finally took it away from them and gave it to the professionals who deliver health. There is nobody who can argue that their health problems are such that they are not significantly better off than they were under the Bureau of Indian Affairs.

The same thing exists here, and I believe the Senate ought to exercise the responsibility here to say since it is not working, since we protected the Indian people's rights, and their rights are very peculiar and sacred, since we have a trust relationship with them nationally, it is not just whether or not we want to educate; with the Indian people we have a trust relationship that we are going to furnish them with education.

on Indian Affairs.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have spoken on this issue before. I am particularly concerned about the high rate of unemployment among the American Indians. We have had a great many migrate to Chicago, and our principal problem is one of finding employment for them. We have some 20,000 there, and their biggest problem has been the lack of education.

Our primary responsibility now, I should think, would be to insure, after all these years, that we find a method of giving the highest possible quality education to them. Unfortunately, education is not the primary responsibility of BIA.

Just like with the Department of Defense, where an amendment to delete that transfer was tabled by an overwhelming margin just a few moments ago, the same reasoning prevails here. BIA's responsibility is not education. In S. 991 we do establish an Office of Indian Education headed by an Assistant Secretary for Indian education, thus assuring priority attention in the new department.

I would simply say, as one Senator deeply concerned about the state of the American Indians—and we have our distinguished colleagues who know a great deal about it and who have lived with it most of their lives—we have a young men and women without having been exposed to school.

When they have the chance to go to school they are superb students. There is no child in America with a higher IQ than the Hopi child.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield? I only have 5 minutes left and all this is being charged to us.

Mr. GOLDWATER. I thank the Senator.

Mr. DOMENICI. I was delighted to yield to my good friend from Arizona.

It is not with great pleasure that I am here opposing two of my best friends who know a lot about Indian problems, my good friend from Arizona and, as I indicated the other day, Senator STEVENS from Alaska, whose interest in Indian problems is second to none. But I come from a State also with a substantial Indian population. I have 19 pueblos. They are a different kind of Indian than the Navajo, but, nevertheless, they are native American Indians.

There is a substantial disagreement among Indian people on what we ought to do. But those particular Indian people, the 19 pueblos in my State, support the transfer. I am going to just tell the Senate why I think they do.

First of all, I believe they are completely convinced that while the Bureau of Indian Affairs may have great expertise in some areas, there can be no question that they have run a less than second-rate Indian education program. It is absolutely a disgrace. The facts have been cited.

I think there is little gamble here. As Senator ABOUREZK indicated the other day, some Indian leaders are afraid because the Bureau of Indian Affairs has them worried that this is the beginning of the dismantling of the relationship. It is dismantling nothing in terms of the trust relationship. We are just saying, "Let us try the Department of Education to professionally run education for Indian children."

It is with regret that I have to oppose the good Senator from Alaska, but I believe the Senate would be making a decision in favor of helping the young Indian people of our country have a chance at education, where we have failed miserably to this point.

I fail to see the risk. If it does not work, it is not working now. If it does not work, they have not lost a trust relationship, they have not lost any of the things that they have.

Maybe we can find some other way to deliver the service, but all the risks are on the side of right here, of trying to do what we should have been doing from the beginning in spite of the difficult circumstances.

I agree with the good Senator from Arizona that it is difficult to develop a program of education in this field. But why should we assume that the Bureau of Indian Affairs under the Department of the Interior is apt to do a better job than the Department of Education?

I do believe this is one instance when we ought to go ahead and do what is right.

The only argument I have heard is

that we did not counsel with them in advance, and that does have an impact on me. But I believe in the process of developing this legislation they have been counseled with. I have read the record and they have been here from all over the country. They have appeared and testified and stated their concerns.

I say to my good friend from Alaska that every one of their major concerns, as they testified in opposition, has now been included in this bill either as it came to the floor or when we proposed and adopted the Domenici amendment, which added four additional protections and desires they were talking about in the hearings.

So I truly believe that there is no gamble here at all, because when there is a gamble usually you think there is a chance of losing. I submit there is no chance for the Indian people to lose here. What can they lose, when we have done such a poor job to this point? We protected their rights in committee, and we are giving them a fresh start and a golden opportunity for finding ways to provide education for the young Indian people of our country.

I hope that the Senate will vote against the Stevens amendment, and transfer this function to the Department of Education.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask unanimous consent to have 30 seconds to put in the Record a resolution.

The PRESIDING OFFICER. Is there

● Mr. KENNEDY. Mr. President: I applaud consideration on the Senate floor of legislation to establish a Department of Education. As a cosponsor of this measure and a member of the Subcommittee on Education, I strongly urge my colleagues to support it.

Education is essential to the well-being of our democracy, for, in an ignorant country the people cannot choose. And, education is essential to the well-being of the people who reside in our democracy for it is the basis of the developments in the arts and sciences which are the hallmark of a progressive and civilized society.

That is why the people of America care so much about education. State and local governments spend more on education—close to 40 percent of their budgets—than on any other item. Schooling is universally available and universally required. The proportion of children who start school earlier and continue longer has increased year by year.

It is time, Mr. President, that we show the same concern on the Federal level. The Federal Government must not usurp the place of the States and localities in providing education. But, we must insure that we do all that we can to help the States and localities provide equal opportunity education of high quality. Education in this country needs help today, and we must give our assistance. The bill which the distinguished Senator from Connecticut has crafted and brought to the floor does this admirably.

It is difficult to focus Federal atten-

Rights in the Department is given more prominence, is insulated from programmatic pressures, and its Director will report directly to the President, Secretary, and Congress.

The new Department will allow for much better coordination of Federal programs for elementary and secondary education. In addition, an assistant secretary who is responsible for the delivery of all services to students, schools, and boards of education will have the capacity to respond to the overall needs of these people. The current fragmentation leaves educators on the local level no one to turn to when their problems go beyond the specific legislation administered by some official. An important focus of the new Assistant Secretary will be to insure the availability of Federal programs to all those who are eligible. Fewer than half the eligible students are being served through title I of the Elementary and Secondary Education Act; fewer than 10 percent of the eligible students are being served by bilingual education programs. The Assistant Secretary should see how we can most effectively utilize our resources in these areas.

The new Department would also be able to make substantial contributions to the effective support of post-secondary education and of occupational, adult, and community education by the Federal Government.

Altogether, a new Department of Education will indicate that we, at the Fed-objection? Without objection, it is so ordered.

Mr. STEVENS. The National Congress of American Indians passed a resolution last week which took note of the Domenici amendment, and stated this:

> Whereas, there is pending legislation to create a separate Department of Education (S. 991/H.R. 13343) that would transfer many education programs presently housed in other agencies into this Department, and
>
> Whereas, the overwhelming majority of Tribes have gone on record in opposition to transferring B.I.A. Education into the new Department, and
>
> Whereas, the U.S. House of Representatives has respected the wishes of Tribes in its actions thus far by deleting the transfer of B.I.A. Education from their version of the bill (H.R. 133430), and
>
> Whereas, Senator Stevens and twelve other Senators have cosponsored an amendment in concert with the wishes of the overwhelming majority of the Tribes, which will delete the transfer of B.I.A. Education from the bill, and.
>
> Whereas, Senator Domenici and Senator Melcher have introduced a conflicting "Indian" amendment that transfers B.I.A. Education, and
>
> Whereas, the simultaneous introduction of two different "Indian" amendments has created confusion for Senators who do not know which Indian amendment the Tribes want them to support;
>
> Now therefore be it resolved, that the Tribes of the National Congress of American Indians oppose the Domenici/Melcher Indian Amendment;
>
> Be it further resolved that the Tribes of NCAI endorse and support the Senator Stevens Indian Amendment.

The resolution was adopted by representatives of 143 tribes on September 19, 1978.

tion on educational needs within the HEW context. HEW is overwhelmingly concerned with health and welfare issues and the Secretary has little time to devote to education. Education should become the focus of a Cabinet official, who has the resources and the time to devote to making the Federal effort more effective. The offices that have been established within this new Department indicate the increased attention we will be able to give to the various aspects of education: offices for elementary and secondary education; postsecondary education; occupational, adult and community education; civil rights; research and improvement; special education and rehabilitative services.

Mr. President, this legislation not only increases Federal attention to education but achieves many other objectives as well

The bill emphasizes the need for citizen involvement in the educational process. Such involvement can be the touchstone for better education. It has always been a primary concern of mine—from parental involvement in the education of native Americans, to parental involvement in education for the educationally disadvantaged. As the committee report notes:

> One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required by law and to encourage the involvement of parents, students and the public in the development and implementation of the Department's programs.

The bill strengthens our ability to insure equal educational opportunities for all individuals. The Office of Civil

eral level, recognize the Federal responsibility to assist local and State governments in their educational efforts. No more should education take a back seat. For, in education lies the future.

Mr. President, I have two concerns with the Department of Education bill before us. One, the transfer of Indian education to the new Department, I will address now. The other, the place of science education, I will address at the appropriate time.

In the 91st Congress I chaired the Special Subcommittee on Indian Education of the Committee on Labor and Public Welfare. The hearings and investigations of the subcommittee filled 4,077 pages in 7 volumes. We found the condition of Indian education was no less than shocking. Compared to other Americans, far more Indians were illiterate; the average level of education was far lower; the dropout rates in secondary schools were far higher; far fewer Indians went on to college and far fewer of those who went subsequently graduated.

In response to our findings, the subcommittee made 60 recommendations for changes in the way Indian education programs are run. Among them, we recommended a series of specific objectives for educational opportunities for Indians and the establishment of a Select Committee for Indians. We suggested vastly increased participation and control by Indians of their own education programs; that the BIA Commissioner in Interior be raised to an Assistant Secretary; that a National Indian Board of Indian Education be established with the authority to set standards for Federal Indian schools; and that Indian boards of education be established for Indian school districts. We recommended special programs to meet the needs of Indian children—for culturally sensitive curricula and bilingual educational efforts. Stimulated in part by these recommendations, then Senator WALTER MONDALE and I authored title IV of the Indian Education Act of 1972. But our special subcommittee made no recommendation as to whether educational efforts should be removed from BIA, stating instead:

> Because we believe it critically important that the Indians themselves express their voices on this matter, we have suggested that it be put high on the agenda of the White House Conference on American Indian Affairs.

That conference never took place and the position of Indian education in the Federal structure was left open.

The bill reported by the committee moves all of the educational programs currently run by the Bureau of Indian Affairs to the new Department of Education. It establishes an Assistant Secretary position and a separate office to run Indian education programs.

I understand the concerns being addressed by the committee in making this change, nonetheless, I disagree with the decision and will vote against the transfer.

The Governmental Affairs Committee notes in its report on this bill that Indian education is divided between programs in BIA and the Office of Education. The quality of the programs run by BIA is still not acceptable. The Director of Edu- tems. The number of tribally operated contract schools has gone from 2 to 35; in the past 5 years the number of Johnson-O'Malley contracts has gone from 4 to 121. Boarding school enrollment has decreased by 9,000. Changes in BIA structure, incorporated in the ESEA reauthorization, which make the local educators responsive to the national Director of Education rather than the BIA Area Administrator promise a better performance in the future.

So, too, we must consider the place of education in the total tribal context. Separation of programs and their dispersal throughout the Federal bureaucracy will hinder Indian self-determination efforts. Different regulations, different forms, different definitions will make it more difficult for tribal governments to enter comprehensive government-to-government relationships with the Federal Government. So, too, the fragmentation of Federal efforts for Indians will inevitably hinder the consistent application of Federal trust responsibility. This must be a grave concern. There must be a place in the Federal Government which is primarily responsible for overseeing the Federal relationship with Native Americans.

Finally, the most important factor which leads me to conclude that education should stay in BIA is the overwhelming desire of those affected by the program that it stay there. There is an elementary principle of self-determination. While it is true that the Federal Government can organize itself as it wishes, the I have talked with six different Presidents to do away with the BIA.

But my argument is that American elementary education being in the mess it is in, I do not want to mess up Indian education further by turning it over to a bunch of people who are making our American educational system the worst in the world.

Mr. DOMENICI. Now I want 30 seconds, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. If we had a resolution in to get rid of the Bureau of Indian Affairs, we would have unanimous Indian resolutions here, just as we do in this case, saying "Don't get rid of them."

Mr. GOLDWATER. No, you would not.

Mr. DOMENICI. Yes, you would, because the fear of God has been put into them that if the Bureau goes, they lose all their rights. So it would have no more support from the Indian people than the transfer proposal before us has.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment (No. 3588) of the Senator from Alaska (Mr. STEVENS). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from In-cation is submerged within the BIA and Interior bureaucracies, meaning that educational concerns are not given the attention that they deserve. The position of education in this hierarchy is reflected in the fact that Directors of Education have lasted an average of 9 months each in the last 12 years.

But, when these facts are considered in context, the argument for transfer is seriously weakened. Educational quality has increased in BIA in the last 10 years. Changes in the structure of the BIA and its educational efforts have recently been enacted by both the House and Senate in the Elementary and Secondary Education Act and these changes promise an even more responsive BIA program.

Bifurcation of Indian programs between Education and BIA will make it more difficult for tribes to develop comprehensive tribal planning. Most importantly, the vast majority of the tribes deeply desire for the programs to stay in BIA. This last consideration—the voice of the Indian people—was the consideration which moved us 9 years ago; it is the consideration which must be most powerful now.

While we must do all we can to further improve the educational opportunities for Indian children, we should not denigrate those strides which have been made in the last 10 years, under BIA. The number of students in the higher education grant program has gone from 2,660 to 20,000; the daily attendance in BIA schools is now up to an average of 82 percent. This is still too low, but is better than attendance in many big city systems. The fact is that, in this instance, we are organizing to be of service to Indians; their views on how we can best be of service should receive foremost consideration. The groups which reflect the concerns of Native Americans have stated their desire that education stay in BIA: the National Tribal Chairmen's Association wants it there, the National Congress of American Indians wants it there.

Mr. President, for these reasons I believe that this body should decide to leave education of Indians in BIA, and should not transfer it to the Department of Education. There is no question that the Governmental Affairs Committee has addressed itself to real concerns in making the transfer. There is no question that the committee has tried to meet many of the concerns which have been voiced about the transfer. But many of the concerns cannot be safeguarded in the new Department, but inhere in the transfer itself. Their concerns are fundamental. Native American education should stay in the Bureau of Indian Affairs.●

The PRESIDING OFFICER. All time has expired.

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have 30 seconds to respond to the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GOLDWATER. I do not want the Senator from New Mexico to think I am defending the BIA. If you want to introduce an amendment to do away with the BIA, I will support it, or vice versa. diana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Arkansas (Mr. HODGES), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. ABOUREZK) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Idaho (Mr. MCCLURE) would each vote "yea."

The result was announced—yeas 47, nays 39, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—47

Bartlett
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Curtis
DeConcini
Dole
Durkin
Eastland
Ford
Garn
Goldwater
Griffin
Hansen
Hart
Hatch
Hatfield, Paul G.
Hayakawa
Helms
Hollings
Humphrey
Inouye
Jackson
Kennedy
Laxalt
Lugar
Morgan
Nelson
Packwood
Sarbanes
Sasser
Schmitt
Scott
Stafford
Stennis
Stevens
Stone
Thurmond
Tower
Wallop
Weicker

NAYS—39

Bellmon
Bentsen
Biden
Cannon
Case
Clark
Culver
Danforth
Domenici
Eagleton
Glenn
Gravel
Hathaway
Heinz
Huddleston
Javits
Leahy
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Schweiker
Sparkman
Stevenson
Talmadge
Williams
Zorinsky

NOT VOTING—14

Abourezk
Allen
Anderson
Baker
Bayh
Haskell
Hatfield, Mark O.
Hodges
Johnston
Mathias
McClure
McIntyre
Pearson
Young

So the amendment (No. 3588) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Knox Walkup of Senator SASSER's staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

When we proceed, we have additional amendments by the Senator from New Mexico. As soon as we are in order, I shall recognize the Senator for his amendments.

AMENDMENT 3621

(Purpose: To delete the transfer of programs from the National Science Foundation to the Secretary of Health, Education, and Welfare—".

On page 58, line 24, strike out "(A)" and insert "(1)".

On page 58, line 26, insert "and" after the semicolon.

On page 59, line 1, strike out "(B)" and insert "(2)".

On page 59, line 3, strike out the semicolon and the word "and" and insert a period.

On page 59, strike out lines 4 through 6.

On page 77, beginning with line 12, strike out through line 10 on page 78.

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 40, in the table of contents, strike out item "SEC. 305. Transfers of functions from the National Science Foundation.".

On page 40, in the table of contents, renumber items SEC. 306. through SEC. 309. as items SEC. 305. through SEC. 308., respectively.

Mr. SCHMITT. Mr. President, the importance of science and technology in providing for both the high standard of living which we find in the United States and the defense needs of our Nation cannot be overestimated. The answer to many of the problems which we as a Nation face lies with advances in science and technology. The transfer of science education programs from the National Science Foundation will not meet the goal of improving science education in this Senator's opinion. As Charles Saun- I hope my colleagues will find that they can support this particular amendment.

Mr. President, as I have indicated, the science community is strongly opposed to the proposed transfer. This includes the American Association for the Advancement of Science. Up until very recently, it included the National Science Foundation and it does include the National Science Board.

Mr. President, I should like to quote extensively from the statement by the National Science Board relative to this matter as adopted unanimously at their April 21 and 22, 1977, meeting:

> The possible establishment of a Department of Education in the Federal Government involves a wide variety of considerations, most of them not primarily involving science. The National Science Board therefore takes no position on the issue of establishing such a Department.
>
> THE NATIONAL SCIENCE FOUNDATION AND THE SUPPORT OF SCIENCE
>
> It has been recommended by some that the National Science Foundation (NSF) be made part of a new Department of Education. The National Science Board strongly opposes any such suggestion. The fundamental objective of the Foundation is and should remain the health of basic science in the Nation, including both its research and education components.

This Senator emphasizes the expression "both its research and education components."

> Science focuses on the creation of new knowledge, and its effective teaching depends on that knowledge. The process of research is an activity distinct from educa-

the Department)

Mr. SCHMITT. Mr. President, the next amendment I shall offer, I shall try to go through as briefly as possible. I think some setting of the record is important. It has to do with the transfer of the education programs from the National Science Foundation to the proposed Department of Education.

The PRESIDING OFFICER. The Chair has to interrupt to ask the Senator to call up his amendment so it may be reported.

Mr. SCHMITT. Mr. President, I shall do that if the clerk can pick that amendment out. I have lost track of the number right now.

The PRESIDING OFFICER. The Chair asks, Is it the one that deals with the transfer of the National Science Foundation?

Mr. SCHMITT. It deals with the National Science Foundation.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from New Mexico (Mr. SCHMITT proposes an amendment numbered 3621.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 58, beginning with the word "Improvement" on line 21, strike out through the dash on line 23, and insert the following: "Improvement all functions transferred

ders of the American Council on Education stated in testimony before the House Subcommittee on Legislation and National Security:

> The location of the Education Directorate within the National Science Foundation affirms the importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both . . .

Mr. President, I have to agree wholeheartedly with that statement, having had most of my active professional career and associated both with science education and scientific research.

The science community is strongly opposed to this proposed transfer. The American Association for the Advancement of Science, the National Science Board, and Representative RAY THORNTON, chairman of the House Subcommittee on Science, Research and Technology testified against this transfer, as have many others.

Higher education associations are also opposed to this provision of S. 991. Ten organizations including the American Association of State Colleges and Universities, the American Council on Education, and the National Association of State Universities and Land-grant Colleges were represented in House testimony against the proposed transfer.

The House subcommittee by a vote of 5 to 2 deleted from the House version of S. 991 the provision which transfer science education programs from the National Science Foundation to the Department of Education. The full Committee rejected an attempt to reinstate this transfer into the bill by a vote of 3 to 21.

> tion, and its impact extends far beyond education. Hence, an independent agency is science effectively.
>
> The present organization has served the Nation well, in part because of the special nature of the policy oversight and quality control responsibility of the National Science Board. Through the National Science Board and the peer review process, a close and effective relationship between the scientific community and NSF has developed. The Board and the Foundation have been remarkably successful in effectively using limited resources to support and develop a high quality basic science program in the United States.
>
> The National Science Board concludes that this would not be in the best interests of science or the Nation, because activities in scientific research and science education are inextricably linked.
>
> In particular, the National Science Board believes that it is important that the initiatives for science education remain close to the science community, for at least three reasons:
>
> Science education must reflect current scientific knowledge and techniques.
>
> The science content of science education must be accurate as well as current.
>
> A major purpose of the science education enterprise is to ensure an adequate and continuous flow of talented people into scientific work.
>
> The present arrangement provides for an effective linkage between science education and research. It has achieved major successes in the past two decades, despite quite limited resources. The National Science Board strongly recommends that this arrangement be maintained..

Mr. President, the Vice Chairman of the National Science Board, my good friend, Dr. Grover E. Murray, formerly of Texas Tech University, testified before the Subcommittee on Legislation and National Security in the House of Representatives. I should like to present now excerpts from that testimony:

> The National Science Foundation deals with educational institutions of all levels and at all locations. Science education, therefore, contributes substantially to the geographic distribution of NSF funding.
>
> For these and other reasons, therefore, the National Science Board considers science education an integral part of the Foundation's scientific activities, as has the Congress since 1950.
>
> In its wisdom in 1950, the 81st Congress, which included at that time my Congressman, Mr. Mahon, passed Public Law 507, the NSF Act of 1950. In that Act the Congress welded together scientific research, technology, and science education, and directed the National Science Board and the director to do certain things, which are spelled out in the statutory act, sections 3(a)(1) to (5), 3(d) and 3(e), and others, and I would appreciate it if they are entered into the record

Mr. President, I ask unanimous consent to have those sections printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM SECTION 1 (PUBLIC LAW 507—81ST CONGRESS) (64 STAT. 149) (S. 247) AS AMENDED.

FUNCTIONS OF THE FOUNDATION

(42 U.S.C. § 1862)

> SEC. 3. (a) The Foundation is authorized and directed—
>
> (1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the various fields of science, including, but not limited to, programs in the

> the United States, and to avoid undue concentration of such research and education.
>
> This union has worked well. For nearly 30 years the National Science Foundation has contributed significantly to the improvement of education in science, engineering, technology, and related fields.

Quoting aga[illegible]

> Additionally, Mr. [illegible]irman, and gentlemen, the National Science Board believes that pluralism in science education is as important as pluralism in science support. Neither will profit from a single centralized support base. We believe that monopoly is as bad and as detrimental as duplication; that neither is strictly desirable, and that an intermediate position is needed, for example, some pluralism, plus coordination.
>
> The Board believes additionally that science should be represented in any Department of Education which is created. But we do not believe that it should be concentrated or isolated there. We feel that science and technology are too important to the Nation to be organized or to be structured in such a manner that they could conceivably be dominated detrimentally by other things or activities.

Quoting again:

> Finally, I am deeply impressed that a very large, vast majority of the national higher educational organizations of this country which have testified before you to date, representing all levels and qualities of performance and including the 50-odd Land Grant Colleges and State Universities, have advocated that continuation of the present system would be in the interest of the health of our scientific and technological educational efforts. And I speak only about the National Science Foundation and science education programs of NSF to the general education programs of HEW. Such a department would not provide effective management for science education activities. I urge you to reject the Reorganization Committee's recommendations regarding the transfer of NSF programs for the following reasons:
>
> NSF's Science Education programs are highly specialized activities and qualitatively different from the education programs of HEW. If NSF's Science Education programs are kept intact in the new department, they will form an anomalous unit that will be too small to be effective (less than 1/200 of the department's budget); if instead they are dispersed throughout the new department, they will lose their identity and effectiveness.
>
> Science Education at NSF, though relatively small (about $78 million or 1/12 of the NSF budget), continues to have an enormous impact on the quality of American education. This is because of the thorough integration of NSF's education programs with its research activities and because science education at NSF attracts and encourages the Nation's best scientists to become active in education. Uncoupling science education and scientific research would have a negative effect at all levels—elementary schools, high schools, and colleges.
>
> For these reasons, the National Science Board joins me in strongly opposing the transfer of the NSF Science Education programs to the proposed Department of Education.
>
> Sincerely yours,
>
> RICHARD C. ATKINSON, *Director*.

Mr. President, since that time, of course, it is only fair to say Mr. Atkinson has changed his mind.

Finally, Mr. President, I would direct

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tific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 10, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups,

(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout education programs there and not about the Department of Education.

Mr. President, I think, although one might argue the scientific community is speaking with a vested interest, the unanimity of this vested interest has to carry a great deal of weight in this deliberation.

If we in the Congress and in the Government are going to ignore the recommendations of all of the people most expert in a given field, then we are going to do so at very great peril to the Nation.

Mr. President, initially, as late as April 10, 1978, the National Science Foundation was on record as opposing the transfer of its educational functions to the Department of Education. Since that time they have come into line with the administration position.

But let me quote from the April 10, 1978 letter by Richard Atkinson, Director of the National Science Foundation, to the President:

National Science Foundation,
Washington, D.C., April 10, 1978.

President,
The White House,
Washington, D.C.

Dear Mr. President: I agree with your view that a Department of Education could enhance the ability of the Federal Government to serve the cause of quality education for all of our citizens.

Given a well-conceived plan for a Department of Education, an argument can be made for transferring the National Science Foundation's (NSF) Science Education programs to that department. However, the new department, as proposed by the Reorganization Committee, does not have a discernible rationale and does little more than add the the attention of my colleagues to the testimony of Charles B. Saunders before the Subcommittee on Legislation and National Security, Committee on Government Operations, House of Representatives.

Mr. Saunders is vice president for governmental relations, American Council on Education, a council that represents many of the major associations and councils involved with education, particularly education at the college and university level.

Mr. President, I ask unanimous consent that a list of those associations be printed at this point in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

American Association of State Colleges and Universities.

American Council on Education.

Association of American Colleges.

Association of American Universities.

Association of Catholic Colleges and Universities.

Association of Jesuit Colleges and Universities.

Council for the Advancement of Small Colleges.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

Mr. SCHMITT. Mr. President, I quote briefly from Mr. Saunders' testimony:

H.R. 13343 would transfer a number of programs from other agencies to the new Department. We oppose transfer of the National Science Foundation's Education Directorate (or for that matter any other part of that appropriately independent Foundation), as provided in Section 305. Most members of the

> higher education community believe that the location of the Education Directorate within the National Science Foundation affirms the importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both, by depriving them of their mutually supportive relationship.
>
> These programs should be developed and administered with a sensitivity to the science and research environment on campus in which they will function. They should be staffed by professionals, some on temporary assignments from colleges and universities, who are familiar with existing NSF academic science research and training programs and with emerging educational needs and training opportunities. A staff in a separate Department, isolated from the Foundation's research environment, in our view, would neither bring the same perceptions and experience to these programs nor attract the quality of experienced individuals drawn to them by the unique research environment of the Foundation. We see no reason to disrupt the present relationship, with the reduced effectiveness which would be bound to occur, for the sake of adding another agency to the new Department of Education.

Mr. President, there is one consistent theme throughout everything that has been said by others on this issue. It is a theme I personally would reemphasize again and again.

Again quoting from Mr. Saunders, as well as others:

> The importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both, by depriving them of their mutually supportive relationship.

Mr. President, I do not know what else be in a position to complement Department of Education activities by focusing on innovative projects. The new department will work closely with NSF.

Basic research is a highly important national investment, and NSF will pioneer some major new research projects in the physical and biological sciences over the next decade. During these years, the Department of Education will concentrate on translating the research information and findings to school-age students and their teachers.

Responsibility for encouraging more women, minorities and persons who are physically handicapped—all of whom are terribly underrepresented in scientific and technical careers, will also remain in the NSF.

Thus, this move will not take NSF out of those areas of priority to which Congress has designated in both authorizing and appropriation language.

The transfer of these programs was supported unanimously by the Governmental Affairs Committee. The committee's support includes that of Senator JOHN GLENN, whose subcommittee has jurisdiction over Government research joins with me in supporting this transfer.

The bill provides for an Office of Educational Research and Improvement. The science and education functions would be transferred intact to this Office. This Office will be involved in assisting educational research, development, and improvement. These science education programs transferred are concerned with schools systems, community colleges, and State departments of education. These are the institutions that will work closely with, and will be served by, the Department of Education. The priority and emphasis of improving science in our schools can be reinforced by establishing at the outset a strong and visible science unit in the Office of Educational Research and Improvement, established by S. 991.

In testimony before the committee Phil Smith, Assistant Director, Office of Science and Technology Policy testified that the transfer of these programs would offer distinct advantages in those cases where there is a desirability of implementing on a wide basis activities characterized by knowledge dissemination, the widespread introduction of new educational technologies and the training of professionals, such as teacher training programs. The programs transferred are consistent with this approach.

In summary, science education transfers from NSF, which represent less than 7 percent of NSF's entire budget, will not change the overall mission of the NSF.

Our transfer will assure visibility and status for science education, as Science education programs will be no less than one-fourth the size of the newly created "Research and Improvement Office."

The opportunity to influence and improve science education and related programs by their placement in the new Department will be increased. Programs relating to science education already existing in the Office of Education would can be said but to emphasize that that is the essential unanimous opinion of everybody who has been involved in science, scientific research, and scientific education.

I have been involved in all of those for most of my professional life. I am still involved in it. I cannot say too strongly to my colleagues that this is probably one of the most serious mistakes we are going to make if we continue along this line with the creation of the Department of Education.

Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF addressed the Chair.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I oppose the amendment of the Senator from New Mexico. It should be kept in mind, the total science education programs in NSF are $77.6 million. The programs transferred are $56.3 million of that amount—approximately 7 percent of the overall NSF budget this year. The programs transferred are concerned with faculty development, school and undergraduate programs, which include science teaching and curricula. The graduate research training and scientists-nonscientist communications programs and certain ethical, value and science policy issues which are applicable to NSF's broader agency mission would remain at NSF.

The transfer does not preclude the NSF from launching new science education initiatives. S. 991 specifically states that NSF's authority is not prohibited from initiating any new programs with respect to science education. NSF would be combined with NSF's programs to give science education even more prominence in the new Department. Committee report language assures close linkages between the Department of Education and NSF.

these activities and, because they are transferred intact, will be highly visible in this Office. Thus, the programs transferred fit well with the entire mission of this Office and with the new Department.

The education division now supports projects worth millions of dollars which deal with science education and curricular development, such as environmental education, metric education, and science and math projects. It supports research relating to teaching subjects including science, math, and the use of instructional technologies. For example, the Department of Education can be expected to assist with problems associated with the poor quality of science and mathematics programs in our schools, but only if it has the appropriate resources and scientifically trained staff—which this bill provides. The programs transferred to the new Department would help provide a unified focus in this area and will allow teachers and educators to work with the scientific community so that scientific curriculums and materials are well developed. Thus educators will be able to lend their support for science education.

We are aware of declining trends in scientific achievement among school-aged children. The National Assessment of Educational Progress reports this year that "in high schools, youth continue downward trend in science despite the ever-growing demands of a technological society."

The main responsibility for improving science knowledge and skills among all youths and adults will lie with our 16,000

NSF will continue its role to initiate science education programs deemed necessary, and to monitor the research and science education programs of all Federal agencies, including the Department of Education.

Continuation of graduate-level fellowships and traineeships and almost all of its science and society education programs (over $20 million of funds) would remain in NSF.

I urge defeat of the Schmitt amendment to delete this transfer.

Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. KENNEDY), together with attachments, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. KENNEDY

I comment on the pending amendment to remove from the Department of Education legislation those provisions which require the immediate transfer of science education programs from the National Science Foundation to the new Department.

The Subcommittee on Health and Scientific Research, which I chair, has had the opportunity to review science education programs in considerable detail over a period of close to ten years. During that time we have heard extensive testimony on the accomplishments which have been made in science education through N.S.F. support, as well as on some areas where improvement still remains to be made.

Most recently, we heard testimony from a number of science education groups, from the Director of the National Science Board and from the Director of the National Science Foundation. They pointed out some very valid concerns with regard to the proposed transfer.

Following the hearings, the Subcommittee heard from a wide range of individuals and groups who expressed strong opposition to the immediate transfer of these programs. These groups include:

American Association for the Advancement of Science.

National Science Teachers Association.

American Association of State Colleges and Universities.

American Council on Education.

Association of American Colleges.

Association of Jesuit Colleges and Universities.

Council for the Advancement of Small Colleges.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

National Catholic Educational Association's College and University Department.

National Science Board.

Director, National Science Foundation.

Committee on Minorities in Engineering, National Research Council.

American Chemical Society.

Mathematical Association of America.

American Mathematical Society.

We have also been in touch with the Science Advisor to President Johnson, Dr. Donald Hornig; the Science Advisor to President Kennedy, Dr. Jerome Weisner; and the Science Advisor to President Nixon, Dr. Edward David. All have expressed their opposition to would be lost. This is a critical coupling for first rate science education development.

I would be glad to amplify these remarks should you so desire. I hope you can play the important role of maintaining science education programs where they can be most effective; namely, in the Science Foundation.

Yours sincerely,

EDWARD E. DAVID, JR.

SCIENCE

ANOTHER GO AT FEDERAL EDUCATION

There is something beautiful and good in the vision of Cabinet rank for education. There is to be a seat at the table at last, in the heady company of defense, foreign affairs, and energy. There is a hopeful glimpse of new political power, built on a unified education constitutency. Such is the spell wrought by the sorcery of reorganization.

Whether a remodeled government architecture ensures more equality and vitality in education in the United States is by no means clear. To paraphrase Thomas Huxley, size is not grandeur and territory does not make an educated nation. In the past three decades, federal education priorities have zigged and zagged and it is hard to put a name to what has come out of them, although there is evidence that federal leverage played a large role in opening up educational opportunity and that science curricula took a turn for the better. But given the built-in aversion to federal authority over the education process, expectations for striking change were too optimistic. The President sees balkanization of federal responsibility as a problem, and to an extent he is right. But pretentious efforts at reorganization are unlikely to make a difference unless driven by new consensus strategies, which to date have not turned up.

education, the case for the latter would be stronger. Human resources make or break investment in research.

Science education is not a priority that we have outgrown. As the knowledge base expands, increasing pressure is put on teaching. Both the proficiency of instruction at the secondary level and the effectiveness and competence of career counseling have profound meanings for higher education. A public which is asked to cope with difficult problems of choice in matters of health, consumerism, energy, and environmental balance can hardly assess uncertainty in the absence of better science education. There is a large and vexing job to be done. Government, which calls most of the signals for science, should be the first to understand this.

Mr. KENNEDY. Moreover, earlier this month the Office of Technology Assessment, on whose Governing Board I serve, issued a report entitled "Impact of a Department of Education on Federal Science and Technology Activities". That report which was issued just a few days before the beginning of the floor debate in the Senate, raises some serious concerns about the impact of the proposed immediate transfer.

The following excerpt from our most recent Committee Report on scientific research and education programs summarizes our Committee's view of the problems which must be taken into account in considering the transfer of science education programs from the NSF to the Department of Education:

DEPARTMENT OF EDUCATION

The creation of a separate Department of the proposed immediate transfer. The text of Dr. David's letter together with a recent editorial from Science magazine follows:

AMERICAN ASSOCIATION FOR THE
ADVANCEMENT OF SCIENCE,
Florham Park, N.J., July 31, 1978.

Hon. EDWARD M. KENNEDY
U.S. Senate
Washington, D.C. 20510

DEAR SENATOR KENNEDY: I am writing to urge you to oppose the reorganization legislation which would transfer NSF's principal science education programs to the new Department of Education.

Over the years, the Science Foundation has been quite successful in putting genuine science and mathematics into the school curriculum. The Foundation has also had a substantial beneficial effect on teaching at all levels. This effectiveness of the NSF Program is to be admired because of the narrow line they have to tread between federal and local authority in determining the curriculum content. As you well appreciate, NSF has not always avoided such politically-based pitfalls, but overall its performance has been remarkedly good in my opinion. Today there is a new role to be played by NSF in science education. It is that of educating the non-science student for living in a technologically-based world. This goal of technological literacy will in my opinion be even more difficult to achieve than bringing true science into the curriculum as NSF has already done.

I believe that the transfer of these programs to a new large Department of Education would submerge them to a low priority and relegate them to ineffectiveness. The primary concern of the education people is and will continue to be instructional techniques, teaching theory and educational evaluation, not the substance of new curriculum materials. The essential interaction between the NSF education programs and the research activities of the Foundation

If little is to be gained by reorganizing federal education programs, the next question is whether something is to be lost. It is not an idle question, given the jarring news that the National Science Foundation is to be stripped of most of its science education programs. Although science education in NSF is not what it once was, it still commands and deserves respect in the scientific community. The prospect of its assimiliation by the conglomerate department of education is unsettling, since no bill of particulars has been presented to show that a superagency would do more than distribute mediocrity uniformly.

Time was when science education made up half of the NSF budget, compared with only 8 percent of a larger budget now. If we understand the government's intentions, NSF's statutory charter for science education would not be revoked even though its programs would be handed off. Puzzling as that may be, what is even more troubling is the severing of science education from the major-purpose agency concerned with the state and progress of science. In a new education department dispensing $18 billion the forlorn science education component would amount to two-tenths of a percent. One recalls a cherished footnote in federal budgets: "Totals may not add due to rounding." It is hard to believe that so frail a unit in so vast an empire could compete effectively in a contest of priorities.

In the absence of wars and space competitions, the importance of science education may not seems impressive to the reorganization experts. But only weeks ago the President was stressing the importance of science to our principal national purposes and calling for a new surge of technological innovation. He was right on both counts. If scientific research is a necessary public investment, surely it follows that science education is an equally necessary investment. Indeed, if a choice had to be made between more dollars for research and greater efforts in science

Education has potential for improving the quality of education and expanding educational opportunities. Nevertheless, the committee is concerned about the advisability of transferring the Nation Science Foundation's science education programs to the new Department. The committee will want to be assured that science education functions are placed where they can be of the greatest value and where they can be managed most effectively. Experience gained in almost three decades of funding science through the NSF shows that science education benefits greatly from close ties with basic and applied research. These ties must be retained if quality science education is to be achieved.

The National Science Board, in a statement regarding the role of science in the proposed Department of Education, has pointed out that activities in scientific research and science education are inextricably linked, and that science education can only be kept current when direct and continuous contact is maintained between the research and science education communities. Maintaining accuracy as scientific research reports and results are transformed into materials suitable for scientific instruction also requires close contact between the scientific research and science education communities. Well balanced programs with adequate numbers of well prepared students in appropriate courses at the elementary, secondary, undergraduate, and graduate levels are also required in order to insure that the Nation's scientific research effort does not falter.

Major successes with limited funds can be achieved only through careful agreement on objectives and personal communications among scientists and science educators. The committee is concerned that this balance may not be maintained in an agency with the divergent priorities and restraints that would be inherent in the much broader mission of general-purpose assistance to education.

The committee is concerned that science education might not receive sufficient emphasis in a large departmental setting. Federally supported science education efforts are a very small fraction of total educational costs funded at the national level. They account for less than one half of 1 percent of more than $17 billion in programs that are now planned for transfer to the new Department of Education. It is important that science education not be submerged or subordinated to other educational goals. Continued U.S. scientific and technological strength depend on a vigorous and healthy science education enterprise. To promote the necessary leverage to effect beneficial change, science education activities must have clear visibility in any reorganization of federally supported education activities. While these concerns could be met in a new Department of Education, they raise questions concerning the advisability of transferring the NSF science education programs to the new Department. For these reasons, the committee advises caution in reorganization actions involving the transfer of science education functions which are now the responsibility of the National Science Foundation.

The transfer of NSF's science education activities to a new Department would also have a dramatic effect on the distribution of NSF support. Science education programs account for total NSF support to more than 300 colleges and universities now participating in NSF activities. These institutions are widely dispersed geographically, and a transfer of the Foundation's science education activities to the new Department would significantly narrow the geographical distribution of NSF awards. NSF has used science education as a means for upgrading the capacity of academic institutions in various fields of science. These efforts have

I appreciate the effort the Committee has made to adjust the provisions of S. 991 to meet some of the concerns which have been raised. Nevertheless, I continue to feel that the Senate should work for final approval of legislation which does not include immediate transfer of science education programs. Some of the most persuasive arguments in support of this position follow:

(1) The transfer of science education programs from the National Science Foundation may result in reduced participation by the scientific community in the substance of science education programs. This participation has been a key element in the success of N.S.F.'s science education programs. It is carried out smoothly and effectively by the Foundation, which is in continuing contact with the Nation's leading experts in all fields of science. Mr. President. I am concerned that in the new Department this close cooperation will be difficult to achieve. The scientific research community is not expected to have the same kind of on-going contacts with the new Department that now exist with the N.S.F. And although the Committee report calls for continuation of this participation, this directive will be extremely difficult to implement.

(2) Science and science education should not be separated. The N.S.F. has been able to achieve significant improvements in science education because the Foundation is involved not only in the educational process but in new developments in all disciplines of science. The Foundation has a strong record in assuring that its efforts to stimulate pre-college and college students to pursue careers in science are undertaken in a manner which takes into account emerging fields of science and the need for a balanced scientific workforce. N.S.F. programs provide a continuum of encouragement beginning in Foundation have been moved forward with a minimum of partisan differences and have won wide support on both sides of the aisle. The scientific community, the public and experts in a wide range of science and science education fields have played key roles in assuring that N.S.F. programs respond not to partisan pressure but to needs evaluated and met through careful peer review and consultation with independent experts. This process, while it has not always been without short-comings, is a far better one than a process which may be susceptible to inappropriate intervention. The new Department may not provide this remarkable nonpartisan atmosphere and may result in a situation in which inappropriate intervention could threaten the integrity of science education.

(5) The N.S.F. Science Education Directorate is now headed by an educator with both scientific and educational credentials. The appointment of Dr. James Rutherford to be Assistant Director of N.S.F. for Science Education was a major step toward further strengthening these programs. Dr. Rutherford is highly respected in both the scientific research and education communities. Since he came to the Foundation, science education programs have increased their focus on a range of issues too long neglected. This new emphasis includes increased participation by minorities, women and handicapped in science. It includes a new awareness of the needs of precollege students—both those who will go on to careers in science and those who need a fundamental understanding of the principles of science in order to function effectively in a society in which science and technology are playing an increasing role. An interruption in this new emphasis and strong direction should be avoided in order to maintain the important

been closely integrated with Foundation supported basic and applied research activities. These coordinated efforts have made it possible to involve these institutions in a wider range of NSF activities. Separating science education from the Foundation's research activities would seriously impair these complementary activities.

The committee recognizes that the structure and format of the new Department of Education might satisfy all of the above concerns. However, since the future strength of U.S. science is at stake in the proposed reorganization, the committee urges all involved to take note of the concerns expressed in this report. An objective should be to maintain a highly visible and strong science education program that will retain close ties with the U.S. scientific community.

Before proceeding to a more detailed discussion of the persuasive arguments which have been made against the proposed immediate transfer I would like to thank the distinguished and able Chairman of the Committee on Government Affairs (Senator Ribicoff) for the dedicated efforts that he and his staff have made to make S. 991 responsive to the concerns of scientists and science educators. His Committee Report makes it very clear that there will be a continuing role of N.S.F. in science education. The bill itself specifies that the following N.S.F. supported programs are to be exempt from the proposed transfer:

(1) fellowships and traineeships integral to the support of scientific research and development

(2) ethical, value, and science policy programs

(3) programs which communicate science information to nonscientists.

The bill maintains the N.S.F.'s statutory authority to initiate and conduct science education programs, and provides for consultation between the Secretary of the new Department and the Director of the N.S.F.

a student's earliest years and follow that student through graduate, post-graduate and research activities. I am concerned that the proposal to place graduate and undergraduate science education programs in separate agencies of government will stand in the way of the development of the scientific human resources we need to maintain our nation's preeminent position in scientific research.

(3) N.S.F.'s pre-college and college science education programs have helped to strengthen the awareness of the scientific research community of the need for stronger ties and cooperation with the public as a whole. In the past, the scientific research community has not placed high priority on the participation of non-scientists or on the need to increase public understanding of the impact of science and technology. This is a responsibility to which the research community is now beginning to respond. In recent years, significant steps have been taken towards resolving the lack of communication which has characterized relationships between scientists and non-scientists. An important element in that process has been the presence in the N.S.F. of programs which focus on the needs of persons who require a sound understanding of scientific principles—even though they may not plan to go on to careers in science. To move these programs—programs conducted primarily in two and four year colleges—away from the N.S.F. and out of the immediate sphere of concern of the scientific community may stand in the way of continued progress in the constructive dialogue which has developed in recent years.

(4) the statute of N.S.F. as an independent agency contributes importantly to the ability of science education and research programs to be free of partisan considerations. Through its 25 year history as an independent agency, Its Director serves a 6 year term. The legislation authorizing its programs and their implementation by the progress which has been made.

(6) The $56 million in N.S.F. science education programs proposed for transfer in the Committee bill would have little or no leverage or visibility in a Department with a budget of close to $20 billion. The science education program is a small one. It has been able to maintain its momentum in the N.S.F.—a much smaller agency than the agency envisioned in the Committee bill. Placing this small program in a very large agency may result in a lack of oversight and weak direction. The science education programs may be lost in the efforts of the Congress and the Executive Branch to come to grips with a new multi-billion dollar agency. This situation could seriously affect the continued progress of science education and the ability to monitor emerging needs.

(7) The N.S.F. Act assigns N.S.F. the responsibility for science education. Without a change in the enabling legislation, a shift of N.S.F.'s operating programs could place N.S.F. in an untenable position. N.S.F. will continue to be responsible for science education—but will have virtually no programs through which to carry out that responsibility. This split in authority could cause significant problems in assuring a concerted effort to strengthen science education—and may make it impossible for N.S.F. to carry out its statutory mandate.

(8) The proposed transfer is not essential to the success of the new Department and could be accomplished once the new Department is in place and the future of science education programs could be better assured. The success of the new $20 billion Department does not hinge on whether or not $56 million in science education programs become a part of its authority at the outset. A hasty transfer may result in a situation in which the transferred science education programs are brought to a standstill for a period of 12 to 18 months while the new Department gets underway. There is no compelling reason for this kind of in-

terruption. Once the new Department is established, it may be possible to move the science education programs smoothly to it, without the kind of disruption which would be caused by an immediate transfer. This nation cannot afford an interruption in the improvement of science education—particularly when transfer at a later time could be accomplished without this kind of disruption.

I have discussed these concerns with the Chairman of the Senate Committee on Governmental Affairs. He has assured me that every effort will be made to respond to them.

We have agreed that a good opportunity to deal with these issues, rather than through the amendment being offered today, would be in the House-Senate Conference on S. 991 and the companion bill in the House has eliminated the N.S.F. from the new Department. This was done in the House by roll call vote in Subcommittee and reaffirmed by a roll call vote in the full Committee.

I want, at this time, to give my full support to the efforts of Senator Ribicoff to go into that Conference with the most comprehensive legislation possible. The pending amendment would remove one key element from the agenda for negotiation with the House. I do not support this course.

Rather, I urge the Chairman and the Senate Conferees, if we are successful in turning back the pending amendment, to evaluate carefully the position taken by the House when they go to Conference. It is my own view, as well as the view of virtually every science educator with whom I have spoken, that the correct policy position would be one which resulted in a final bill which did not require immediate transfer of science education programs to the new Department.

I hope this objective can be achieved tions." The court said these functions are those "which governments are created to provide, services which the States have traditionally afforded their citizens." (*Usery*, 426 U.S. 833, 851, 852 (1976).) No tradition in this country is stronger than local control over schools, and no local governmental function in America is more traditional than education. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent. It should be made explicitly clear that the intention of S. 991 is to preserve the prerogative of the traditional role of education as a function of State and local governments and private institutions.

There are currently approximately 300 Federal education programs scattered throughout 40 Federal agencies. In creating a Cabinet Department of Education it is hoped that the management and coordination of these programs can be substantially improved and ease the burden on the State and local governments of the multiple, duplicative, and often conflicting regulations which have resulted from this fragmentation of the education effort. It should be noted, however, that effective management does not mean more control. The responsibility for education policy and curriculum will remain at State, local, and private levels. The rights of State, local, and tribal governments and public and nonpublic education institutions shall be maintained and protected in the areas of program content and administration of pro- Governmental Affairs Committee and chief architect of this bill has once again demonstrated his leadership ability and his continuing concern with the important issue of education. I believe my able colleague Senator Danforth would also like to address the concern of local control over education, and following his remarks, I would be interested in the chairman's observations on this important matter.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. ROTH. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my hope that in this colloquy which I hope will transpire with both the majority and minority managers of the bill, we can establish a clear legislative history on this bill.

On August 6, an article appeared in the Washington Post entitled "Uncle Sam's Growing Clout in the Classroom." The subtitle was "Creating a New Department as a Backdoor Way To Establish a U.S. Responsibility for Education Itself."

The article begins as follows:

> With virtually no public debate over the central issue at stake, the Carter administration and the Congress are moving toward creating a federal department of education with the potential to transform the way education is governed by the United States.
>
> Contrary to widespread belief, the proposed department is not chiefly an issue of reorganizing or consolidating federal education efforts, of increasing the time or money spent on education, or of deciding which ex-

through Conference with the House, after the Senate conferees have had the opportunity to review the information which has been developed since the Committee's initial action on S. 991.

I urge my colleagues who support the concept of a Department of Education to join in the position I have taken with regard to resolving the science education issue in conference.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I have comments that probably would take 3 or 4 minutes. I will be happy, if there is any time pressure on our colleagues, to yield for a colloquy at this time.

Mr. ROTH. Mr. President, during consideration of S. 991 in the Governmental Affairs Committee, I was pleased that my colleagues unanimously consented to amendments offered by Senator DANFORTH and myself to clarify the language in the bill to assure the rights and prerogatives of State and local governments in the educational process. There has been a long tradition in this Nation of local control over education. This tradition is guaranteed by the constitutional requirements of the 10th amendment, which have been underscored by the Supreme Court in the case of National League of Cities versus Usery. In that case the justices held that the States have the freedom under the 10th amendment "to structure integral operations in areas of traditional governmental functions grams as well.

A Cabinet-level Department of Education should supplement and complement the efforts of State, local, and tribal governments, the private, public, and nonpublic institutions, education research institutions, community organizations, and parents and students to improve the quality of education for all Americans. This is where the resources at the disposal of the Federal Government can best be used. The bill establishes an Intergovernmental Advisory Council on Education. The purpose of this council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education. It will serve as a forum to bring the opinions and ideas of those persons involved in the educational process to the attention of the Department. From this perspective the Council is a valuable component of the new Department to supplement and complement State and local efforts to meet the Nation's education needs.

I can think of nothing else that so affects all Americans as education. I can think of no other area where Americans insist more upon a strong local control than education. Education is vital to our country's sustenance and well-being. Education is crucial for good government as it provides the road for an informed public which is the key to an effective democracy. I believe that education is a priority which deserves Cabinet-level status and thus I have cosponsored this bill. My distinguished colleague Mr. RIBICOFF, as chairman of the

isting agency should or should not be absorbed by a new department. Establishing a Cabinet-level department is a backdoor way of *creating* a national education policy, of breaking with the long tradition of a limited federal involvement in education and of virtually no federal responsibility for schools and colleges themselves.

Mr. President, it is my hope in this colloquy to establish clearly the fact that this article is not true; that it is absolutely not correct; that, as a matter of fact, this question was covered very carefully in committee hearings and during the markup; that Senator ROTH offered an amendment to the bill which provided that the Federal Government is available to assist and supplement, but never supplant State and local and tribal governments in developing educational policies.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. DANFORTH. I yield.

Mr. RIBICOFF. The Senator is absolutely correct. The article has no basis whatsoever.

As the chief author of this bill, it was never my intention, and still is not my intention, to carry forward the thesis made by the writer of that article. I reject that completely. Wherever that comes from, it certainly does not come from the author of the bill or the respective cosponsors.

There is no question of the contribution that the Senator from Delaware and the Senator from Missouri have made. It is clearly set forth. The colloquy we have will reemphasize our positions.

I thank the Senators for their contribution. Before we are through with the colloquy, the record and the legislative history will reject clearly the thesis in the article just quoted.

Mr. DANFORTH. I want to make clear, speaking for one Senator who ended up voting to report the bill out of the Governmental Affairs Committee and who will vote for the bill on final passage, that this was the main concern I had, going into consideration of the bill: That by consolidating the Federal effort on education we were somehow vesting the Federal Government with a greater role in making decisions for education which heretofore had been made at the local level.

And that is something that I think would be a very, very bad step in the wrong direction.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I thank both Senators ROTH and DANFORTH for their outstanding contribution in further clarifying the intergovernmental functions of the Department and in reaffirming the fundamental notions upon which the Department will be founded.

S. 991 specifically states:

> The primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities and families.

The purpose of the bill states that the Department of Education will supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students.

In addition to the Council the intergovernmental relations functions of the Department will be performed by an Assistant Secretary who will have direct access to the Secretary and will work with the Council. These structures will help to insure that Federal policies recognize that education is primarily a State and local responsibility and that State and local governments have a strong voice in determining Federal education objectives.

The Department will lead to improved assistance and support for education programs at the State and local levels by increasing the visibility and status of education and improving the management and coordination of education programs. It will also provide a mechanism where input can be provided from among citizens, particularly parents and students. One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required and to encourage the involvement of parents, students, and the public and the implementation and development of all the Department's programs.

I believe no other groups fear Federal encroachment in the area of education more than parents, teachers, students, and administrators—those people closest to education. Such groups as the American Association of University Professors, American Association of School Administrators, National Committee for Citizens in Education, National Governors Association, National School Boards

Mr. ROTH. I say to Senator RIBICOFF, from our colloquy on the subject of local control of the educational process, I am given to understand and wish to make explicitly clear for all of those persons who have an intense interest in this subject that:

First. The formulation of policies in our schools in regard to education is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Second. The choice of curriculums is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Third. The administration of educational programs in our schools is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Fourth. The choice of program content is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students.

Fifth. Educational objectives in our schools are to be determined by State, local, and tribal governments, the private tutions, parents and students to improve the quality of education. This is done acknowledging the right of these entities to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs.

The Federal presence in education does not mean control. Local control of schools is traditional and historical. The Federal Government is involved in assisting State and local governments to insure equal opportunity and equal access to education programs. It provides assistance to States and localities for programs for the disadvantaged and handicapped. It funds programs to assist with educational research, environmental education, community education, and provides assistance to needy children.

Senators ROTH and DANFORTH improved in the committee's markup the functions and purposes of the Intergovernmental Advisory Council on Education. The Council established in the bill provides a vehicle to improve Federal-State and Federal-local relations in education programs. The Council will provide a forum for representatives of State and local government to discuss and impact on Federal education programs and policies. Its representatives would be 22 nonpartisan representatives from State and local government, State and local education agencies, and private citizens. It will review the impact of Federal education policies, including rules and regulations, upon State, local, and tribal governments and public and nonpublic educational institutions.

Association, National Student Association, and National Student Lobby support the Department. These groups do not fear that a Cabinet Department of Education means Federal encroachment upon their prerogatives to develop their own curriculum and policies. The National Congress of Parents and Teachers' (PTA) testimony on the Department of Education legislation reflects the importance as well as the limitations of the Federal involvement in education.

> The PTA has long endorsed the concept of the local control of education and continues its support of this concept. The Federal role in education, however, has assumed increasing importance since the passage, in 1965, of the Elementary and Secondary Education Act. Since then the nature and extent of Federal involvement in education has changed. Far from being an obstacle to the local control of education, the National PTA feels that the establishment of a Department of Education would produce successful cooperation among Federal, state, and local education agencies in their appropriate roles.
>
> The establishment of a Department of Education would make clear the lines of Federal responsibility and authority in the educational effort. It would make it more possible for parents, educators, and other citizens . . . to make [education programs] more fully responsive to their needs.

A Department of Education will increase accountability for education—it will provide a mechanism for State and local governments to impact upon administration of Federal education programs—it will, in other words, provide for improved management of Federal programs—it will not in any way lead to Federal control or dominance of education.

sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Sixth. And finally, in the establishment of a separate Cabinet-level Department of Education we are in no way suggesting, condoning, or implementing and entity to exercise Federal influence over the formulation of policies, choice of curricula, administration of programs, choice of educational objectives and program content, or anything which could be construed as the establishment of a national educational policy.

Mr. RIBICOFF. Yes, that is correct. I agree with the Senator that education is a State and local matter. It is not the intent of this bill, nor will this bill change the present intergovernmental relationship in education. The Government does of course, have special responsibilities in operating schools for Indians and dependents of military personnel where education is not otherwise available. It does not seek to change or enlarge the Federal Government's role in education in any way or to erode State or local control.

Mr. SCHMITT. Mr. President, I wish to enter into this colloquy very briefly, if the Senator will yield on my time, because I think it is far one-sided, and I commend the Senator from Delaware and the Senator from Missouri for their initiatives in this area.

I think it is exactly an appropriate initiative and I support their initiative wholeheartedly and would have if I had been in the committee. However, I am afraid they are doomed to failure, because they established purposes in this bill that are completely inconsistent with the statutory language in the bill, as well as the creation of a new bureaucracy.

They think HEW has been overzealous. Wait until they have the Cabinet-level Department doing the same thing. I hope they are right, but I am fraid they are going to be wrong. The bill and the bureaucracy are just inconsistent with the kind of colloquy that has just taken place.

I am sorry to add that downbeat note to a very positive colloquy, but I just am seriously concerned that it will not come about the way these Senators hope it will.

I thank the Senator for yielding.

Mr. GARN. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. I yield to the Senator from Utah.

Mr. GARN. Mr. President, I associate myself with the remarks of the Senators from Missouri and the Senator from Delaware.

As a former mayor, I share their concerns for the interference of Federal agencies with local government.

One of the most difficult things I had to deal with was the various agencies like HUD and HEW, so I want to emphasize how much concern I have about the creation of this new department, and if it does make possible more interference.

The Senator from Delaware mentioned the Fair Labor Standards Act Amendments of 1974 that were taken to court. I came back as the first vice president of the National League of Cities, lobbied really supplement, complement, and assist local governments.

The Danforth-Roth amendments were adopted unanimously by the committee. If you know the makeup of the Governmental Affairs Committee, I believe it is the least doctrinaire of any committee in Congress, with all due respect to the other committees. It is a committee that is concerned with realities. It is concerned with organization. It is concerned with the encroachment of the Federal Government on localities and States.

We do work out these problems, and you will find that practically all the legislation that comes out of our committee comes out unanimously because we worked out a basic common philosophy.

The contribution of the Senator from Delaware and the contribution of the Senator from Missouri was adopted.

As you listen to the colloquy—and I think even the fears of the Senator from New Mexico, Senator SCHMITT, who is concerned with what is happening at the present time with education—those complaints should be lodged against the present HEW.

One of the concerns of the Senator from Washington, Senator MAGNUSON, as expressed earlier in the evening, was due to the fact that, as chairman of the Subcommittee on Appropriations that always had jurisdiction over HEW appropriations, his concern was with the way these problems were handled or adopted. As I stated then, and still state, he is the man who has been after me more than anyone in the Senate to do something aimed at recruiting and training scientific researchers remain in NSF. Only those programs aimed at students and teachers at the elementary, secondary, and postsecondary levels will be transferred.

The reason why these particular programs should be transferred is the need to upgrade and expand science education in our schools, particularly at the elementary and secondary levels. Presently, this effort is divided between the Office of Education in HEW and the Science Directorate in NSF. This division has led to a fragmentation of the Federal effort directed at science education.

At a time when our country is faced with many problems which require technical and scientific answers, for example, our search for alternative energy sources, we need better coordination of Federal science education programs if we are to develop the scientists and researchers who will be needed.

Placing these programs in one department will greatly facilitate the achievement of this goal.

Mr. President, the legislation which established the Office of Science and Technology Policy provided a role for the OSTP Director in assessing the strength of science and technology, and also the education and training of scientific personnel and the citizens of a nation highly dependent on science and technology in all of its activities.

In testimony before the Governmental Affairs Committee on April 18, 1978, Congress not to impose those new work rules on local government. They turned us down.

It bothered me so much that I went home and decided I was going to start a suit in Salt Lake City and took it to the National League of Cities. So I was very familiar with that suit. I originated it in the National League of Cities, and I was fortunate to have it result in our favor in the U.S. Supreme Court.

The PRESIDING OFFICER. I apologize to the Senator for interrupting, but can we find out on whose time he is speaking?

Mr. GARN. The Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware does not control the time.

Mr. RIBICOFF. I am willing to yield to the Senator on my time. Have I used up my time?

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes remaining on this amendment.

Mr. GARN. I will only take 30 seconds to say, on whomsoever time this is, that I support this view and I hope the new department, when it is created, will not infringe more on the right of local governments. The revenue-sharing approach does make a great deal more sense than the control that goes with categorical programs.

Mr. RIBICOFF. Mr. President, may I comment that the Senators from Delaware and Missouri had the findings and purposes of the original bill changed to assure that local control would be preeminent, and this new department would and to have a separate Department of Education so that we can remedy some of the defects of education with respect to HEW. The way to do it was to do it this way.

I think that by enactment of this bill, we will have a very substantial improvement. The irony is that what the Senator from New Mexico complains about should be lodged really against the present Department of HEW in the way education is presently treated.

I think what we have done in the bill is to obviate some of his concerns, and that is why you will find the strong support of the Senator from Delaware and the Senator from Missouri, who are as concerned with these problems as the distinguished Senator from Utah and the Senator from New Mexico and, may I say, the Senator from Connecticut.

Mr. GARN. I thank the Senator from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I should now like to comment on the amendment of the distinguished Senator from New Mexico.

Mr. President, I do oppose the amendment offered by my distinguished colleague from New Mexico to delete the transfer of the science education programs.

I would like to remind my colleagues that the entire Science Directorate of the National Science Foundation is not being transferred, as was originally proposed. Following our hearings on this issue, the committee recommended that the research and training programs Philip M. Smith, Assistant Director, Office of Science and Technology Policy, strongly supported including science education in the Department of Education. He said:

> We in OSTP were led to conclude that a broadly based Department of Education such as that proposed in S. 991 and which is proposed by the President, would offer very distinct advantages in those cases where there is a desirability of implementing on a wide basis activities characterized by knowledge dissemination, the widespread introduction of new educational technologies, the training of professionals such as teacher training programs, or special assistance programs to help improve the opportunities for sectors of our society such as minorities, women and the handicapped. The widespread implementation or dissemination of either education or research, especially applied research, has never been a major function at the NSF. The NSF Act, in fact, prohibits such activities, thus focusing the NSF or its primary role—the one that it fulfills with a high degree of excellence—namely the support of innovative, experimental projects in basic and applied research and in science education. We have concluded that it is desirable to have a continuing role for NSF in those programs most closely related to science such as the fellowships or those programs where there is a close tie between science and learning. We expect therefore that the NSF will have a continuing and important role in educational research specifically directed at science, knowledge and understanding for both formal education and in broader education of our citizenry concerning science and technology.

For the reasons given I urge my colleagues to vote against the amendment, although I do so with some concern always because my distinguished colleague is a preeminent expert in the field of science and technology. However, I would in this case defer to those who are experts in the field of education.

Having lived through the experience of seeing what can be done to strengthen the role of science and technology in our entire educational process, that it should be an integrated whole, I feel that a Department of Education would be incomplete if we did not make this particular transfer.

Mr. SCHMITT. Mr. President, I appreciate the colloquy that has occurred and the statement just made by the Senator from Illinois. I feel that I not only personally have been involved in science and technology, I have been a part of the science education system ever since I can remember. That system has been closely integrated with science and scientific research.

To sever that integration, as will almost certainly happen with the cleavage as is proposed in the bill before us, will, I think, only accelerate the downward trend that has been taking place in the deterioration in the quality of basic science, mathematical education within our elementary and secondary school system.

That downward trend, by the way, coincides directly with increased Federal involvement, both monetary and in terms of control. I see no way that immersing science in a new fledgling Cabinet-level bureaucracy is going to do anything but make matters worse.

I realize that is a judgment call, but I think it is a judgment call based on

INTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 62, nays 23, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—62

Bartlett
Bellmon
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart
Hatfield, Paul G.
Hathaway
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stone
Talmadge
Wallop
Williams
Zorinsky

NAYS—23

Baker
Brooke
Byrd, Harry P., Jr.
Chafee
Dole
Garn
Goldwater
Hansen
Hatch
Hayakawa
Helms
Morgan
Packwood
Schmitt
Scott
Stevens
Stevenson

field is revenue sharing, the administrative costs of which are one-thirtieth of 1 percent. That I think is an example of what can be done if we really set our minds to granting funds but without strings and without controls.

Mr. DANFORTH. Mr. President, if the Senator will yield at that point, I think that is a very important point to make because it has been something of a tradition of the Federal Government in its distribution of funds to condition the granting of funds to local governments on local governments' meeting certain requirements and, as a matter of fact, in the field of supporting local education some of those requirements have at times been really ridiculous. For example, prohibitions against boy-girl choirs or father-and-son picnics, and that sort of thing.

It seems to me to be an almost irresistible impulse for Federal agencies to condition their assistance to local governments or to local school boards on meeting certain requirements that we in Washington may think desirable but that people in the local school districts think are far from desirable, and I hope that this bill in no way could possibly be construed as in any way expanding the opportunity of a Federal department or Federal officers to manipulate decisions which really should be made at the local level.

Mr. PERCY. In this particular case, I point out a fact that my distinguished colleague from Missouri well knows. We have the most unique possible situation experience in the outside world of science education rather than on the judgment of the Washington community, and that community that has the most to gain from their own vested interest, the educators in this kind of transfer.

So I strongly recommend to my colleagues that they support my amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico yield back the remainder of his time?

Mr. SCHMITT. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time. I move that the amendment be laid on the table, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. EAGLETON assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. Mc-

Domenici
Eastland
Laxalt
Lugar
Thurmond
Tower

NOT VOTING—15

Abourezk
Allen
Anderson
Bayh
Curtis
Haskell
McClure
Hatfield,
Mark O.
Johnston
Mathias
McIntyre
Pearson
Sparkman
Weicker
Young

So the motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, if the Senator will yield for a comment, the Senator from Illinois would certainly have not put his name to this legislation if there were the vestige of possibility that the events outlined in the article that has been read could possibly occur.

The Senator from Illinois has always felt that additional financial assistance is required because there is a ceiling on how much you can extract from property owners. There is a limit on how much you can get, how high you can take other taxes that are levied at the local and State level, and we do have a 90-percent Federal monopoly on the progressive income taxation system in this country.

The Senator from Illinois has constantly used the revenue-sharing principle we do what we can do best at the Federal level. We raise money extraordinarily well. We ought to grant that money with the least strings attached. The absolute preeminent program in this in the creation of this department because the author of the legislation who has worked so long on it is the floor manager of the bill and not only that but he was a former Secretary of HEW in the executive branch of Government. The legislative history that we are now making is being made by a man who has been on both sides of the fence, the executive branch and the legislative branch, and his imprint and his oversight over this activity and this creation of this new department will be an extraordinary opportunity for us to see that the intent of Congress is fully carried out.

Mr. RIBICOFF. Mr. President, if the Senator will yield, the complaints and the concerns of the Senator from Missouri are addressed to the present HEW that is giving these guidelines and conditions and not the Department of Education, so it is in existence without the Department. What we have done in creating this Department is spell out specifically our concerns, our protections, and our affirmations of local control. So once this Department is created with this legislation, the language, the report, and the legislative history, we are really in a position to assure that the mistakes that HEW is guilty of in, I think, their overzealous grab for power will be eliminated, and I think it is being accomplished on the floor right now.

Mr. DANFORTH. I thank the floor managers.

On the basis of these representations and on the basis of the amendment that Senator ROTH offered successfully in the Governmental Affairs Committee I am supporting the bill.

Mr. PERCY. I only add this to Senator ROTH's initiative in this regard. The bill does establish an Intergovernmental Advisory Council on Education. The very purpose of it would be to conduct studies, make recommendations to the Secretary, the President, and Congress for improving the intergovernmental system for developing and carrying out educational policies. But represented there would obviously be the various layers of government, Federal, State, and local, tribal governments, public and nonpublic institutions, communities, parents and students, who must be participants in the Federal education process.

The Federal Government role is one of many roles, not the least of which is our dependence upon family structures and organizations, parent-teachers associations, and others, the assets of which we simply do not want to destroy. We want to enhance those, but again add a sense of direction and a focus and a sense of importance by the creation of a full department to put high priority on education, far higher than it is now.

I hope to overcome some of the great problems we have had with a multiplicity of categorical programs that force educational institutions at the local and State levels to twist and conform their structure to what the Federal Government apparently in its omniscience wants them to do.

It should be the other way around. We should be, in a sense, greatly responsive to the leadership we have at the local level, but certainly not be a director.

The PRESIDING OFFICER (Mr. The amendment is as follows:

On page 36, beginning with line 19, strike out through line 10 on page 115 and insert the following: That this Act may be cited as the "Department of Education Study Act of 1978".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

(1) education is fundamental to the development of the individual and to the growth of the Nation;

(2) the current structure of the executive branch fails to give adequate recognition to the importance of education;

(3) the responsibility for education has and must continue to reside primarily with State, local, and tribal governments, public and non-public institutions, communities, and families;

(4) there is a continuing need to insure equality of educational opportunity, and to improve the quality of education; and

(5) the number, fragmentation, and complexity of Federal education programs have created management problems at the Federal, State, local, and institutional levels.

STUDY BY THE NATIONAL INSTITUTE OF EDUCATION

SEC. 3. (a) The Director of the National Institute of Education (hereinafter referred to as the "Director") is authorized and directed to undertake a thorough evaluation and study concerning the organization of education and education related programs within the Federal government. The study shall specifically examine the need for a separate cabinet level department devoted to eucation and education-related programs. The study shall examine—

(1) the effect of the establishment of a cabinet level department on State and local control of education;

(2) efforts for equal educational opportunity, including the appropriate Federal final report to the Congress. Notwithstanding any other provision of law, the Director shall submit the report directly to the Congress without prior review by any officer or employee outside the National Institute of Education.

FUNDING

SEC. 3. Amounts necessary to carry out the provisions of this Act shall be transferred to the National Institute of Education from funds appropriated to the President for contingent expenses.

Amend the title so as to read: A bill to require the Director of the National Institute of Education to conduct a study concerning the establishment of a department of education.

Mr. HAYAKAWA. Mr. President, the amendment to S. 991 which I am offering reflects my lifelong professional and conscientious concern with the creation of a Department of Education. It is my understanding that the bill has the enthusiastic support of President Carter, the somewhat less than enthusiastic support of Secretary Califano and—most important—the support of 52 Members of the Senate. I am, told, however, that the situation in the House is quite different and that in the other Chamber the forces opposing the bill will probably prevail. I wish them luck because I, too, feel obliged to oppose this bill, at least at the present time.

Some of my colleagues may not be aware that the United States had a Federal Department of Education before. Its record was certainly not inspiring. Created by legislation in 1867, it was headed by Henry Barnard, one of America's foremost spokesmen for education.

PROXMIRE). The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, the distinguished Senator from California has asked to move ahead in sequence prior to the introduction of my next amendment. I ask unanimous consent that the amendment of the Senator from California be considered at this time without prejudice to the time agreement relative to my amendment No. 3619, which would normally be pending at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California is recognized.

UP AMENDMENT NO. 1952

(Purpose: To require the Director of the National Institute of Education to conduct a study concerning the establishment of a department of education)

Mr. HAYAKAWA. Mr. President, I am most grateful to my distinguished colleague from New Mexico for his consideration in this matter.

I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1952.

Mr. HAYAKAWA. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

structure for insuring such efforts;

(3) the relationship between education programs and programs relating to vocational rehabilitation and training and child nutrition;

(4) the special relationship between the Federal government and Indian peoples and the maintenance and protection of that relationship with respect to educational services;

(5) methods for the promotion by the Federal government of quality education and education relevant to individual needs, with a special emphasis on basic skill development;

(6) the improvement of effective partnerships among Federal, State, local, and tribal governments, the private sector, public and non-public institutions, community organizations, and families in order to improve the vitality and quality of education; and

(7) such other issues and areas as the Director finds to be appropriate.

(b)(1) Within 90 days after the date of enactment of this Act, the Director shall submit to the Congress a plan for the study required under this section. The Director shall deliver such plan to both Houses of Congress on the same day and to each House while it is in session. The Director shall not commence the study required under this section until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty day period.

(c) Within one year after the date of submission of the plan to the Congress under subsection (b), the Director shall make a

The Department, however, accomplished so little that within a short time, it was reduced to the status of a bureau in the Department of the Interior. The experiences of that time may not be relevant today, but this first failure is certainly not a good omen.

Mr. President, the issue emerged again in 1923 when a congressional Joint Committee on Reorganization published a report that called for a Department of Education and relief. President Harding, as well as President Coolidge, endorsed the report, but Congress decided to take no further action. The idea of a Department of Education came up again in 1964 when President Johnson appointed a task force on Government reorganization. Since that time, all of the studies of the issue have reached negative conclusions. Among them were the Corson study of HEW and the Heineman Task Force study, both completed in 1966 and the Ash Council study reported in 1971.

So far, Mr. President, I have not a single scholarly study which suggests that the creation of a Department of Education at this time would be a desirable step. Among educators, the issue has, of course, been discussed for many years, and I always had a great interest in the topic. It, therefore, came as a surprise to me to see how this terribly important question has been approached by the Senate. Under the rules of this august body, the Governmental Affairs Committee has considered and reported S. 991. I was given the opportunity to read some of the extensive testimonies which I found quite unconvincing. There were also some modest efforts—I believe from the Republican side—to refer the bill subsequently to the Human Resources Committee where the subject could have been explored in more depth. For reasons unknown to me, there were some consultations, but the referral did not take place.

Mr. President, I wish to go on record as protesting a procedure by means of which the Committee on Human Resources was entirely omitted from the consideration of this very, very important matter which has to do with education. I though the bill, S. 991, had to do, among other things, centrally with education, but it was just skipped over.

As a result, Mr. President, I find myself today in the position of having to vote without adequate information on an issue which is of great concern to me. There can be no doubt that we have serious and complex problems in this general area. Our national efforts to improve public education have been largely ineffective. Federal outlays for education in the last 10 years have tripled while at the same time, our educational standards have deteriorated even further. Is the creation of a Department of Education going to be the answer? I frankly do not know. Moreover, I imagine the great majority of my colleagues do not have the answer, either. It is precisely for this reason that my amendment has been introduced.

Mr. President, before asking for a vote, I want to mention my principal reservations about this bill. The most fundamental one, of course, pertains to bill state that "the Department of Education will supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, and so forth." The crucial questions how policies will be arrived at and under whose authority policy decisions for all the States will be made are left open.

Mr. President, our public education is built upon a system of control by local school boards. The impact of a Federal Department of Education on the existing structure is hardly mentioned and not seriously discussed in this strange bill. Moreover, to the best of my knowledge, none of the plans to create a new department addresses this crucial and complex question.

What then, are the respective roles of the Federal Government and of the States in establishing educational policies going to be? I do not believe anybody in this Chamber is able to offer a clear and unequivocal answer. Have the supporters of this bill given any thought to the significant fact that the United States has not a single Cabinet-level department which is responsible for an area that the Constitution has left to the States? I wonder.

As indicated, Mr. President, the Federal Government has found a method of getting around this important provision in our Constitution by lavishly distributing money with categorical strings attached. In other words, the objections of the States to Federal involvement were usually silenced by increased funds. But concerned with all levels of education generally feel that they have been inadequately consulted and even ignored in considering the design of legislation and the development of regulations affecting the programs for which they have primary responsibility."

Is it not irresponsible to set up a Department of Education before this thorny and fundamental conflict has been resolved? Are we not putting the cart before the horse?

Mr. President, there is one more point I would like to make. Supporters of the bill argue that there are about 300 separate Federal educational programs spread over 40 different departments and agencies with a total expenditure of about $25 billion. Only about 120 of these programs are currently administered by HEW. It is asserted that by putting most of the Federal educational programs under one roof, we will increase coordination and accountability in education programs. This argument has some superficial appeal, but it disregards the fact that there were excellent reasons for assigning these programs to the places where they presently are. These reasons are equally valid today.

There are good reasons why child nutrition and the USDA graduate school should be a responsibility of the Department of Agriculture. It is equally logical why the educational programs of the Bureau of Indian Affairs ought to be administered by the Department of the Interior. There are excellent reasons why overseas dependent schools should be the Federal role in the field of education. Article I, section 8 of the Constitution lists the powers given to Congress. As we all know, the power to regulate education is not among them. We also know that the Federal Government, regardless of constitutional restrictions, has often been able to encroach on States rights. The reasons why this was done were actually honorable. When millions of GI's returned after the Second World War, the GI bill of rights was the logical answer to the threat of widespread unemployment. The post-sputnik programs supported science education, teacher preparation and graduate education. They were enacted in the fifties under the National Defense Education Act as parts of America's defense efforts. And when the enforcement of civil rights and the war on poverty became national goals, the Elementary and Secondary Education Act of 1965 became the tool to implement national policies. In all of these huge programs, aid to education was an incidental aspect. The problem of education policy did not come up, nor was there a need to the fundamental question who actually would make policy.

Mr. President, I am obliged to point out that the drafters of S. 991 sidestepped this issue of the Federal role in education. On one hand, they expressly say that "the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families."

On the other hand, the authors of the let us not forget, the conflict remains. There is a tendency on the Hill to pay lipservice to the relevant basic prerogatives of the States. At the same time, the 50 States of the Union remain very much aware of these prerogatives and will promptly resist transgressions against them wherever and whenever they might be. This year, I personally had a significant experience in this regard when I recently attempted to introduce legislation authorizing voluntary—not compulsory—national tests in reading, writing, and arithmetic. Voluntary tests, Mr. President. The States and individual school boards could have used or rejected the tests. Up went a hue and cry that the Federal Government was trying to take over education. Today, they cried, the tests would be voluntary, tomorrow obligatory, and the next step, there would be nationally mandated curricula. I am citing the example because it shows the prevailing complex conditions.

They do not want Federal intervention in education, even supplying of voluntary tests for achievement and competency, saying that is going to lead to Federal control of education, and now we want to set up a Federal Department of Education.

The American Council on Education offers the following significant comment in this regard: "The Federal Government is perceived by various state officials as contributing some 8 percent of elementary and secondary school budgets and behaving as if it were the senior and managing partner of the educational enterprise. Governors, legislators, chief State school officers, and State boards under Defense and so on.

Mr. President, I have, so far, seen no unbiased scholarly analysis which examines the pros and cons of the suggested transfers. It should be clear to any objective observer that by transferring overseas dependent schools to a new agency, we create the problem of how to coordinate this program with the Department of Defense. By transferring science education programs, we create a problem for the National Science Foundation and by moving the responsibility for college housing construction loans, we make operations more difficult for HUD. These are only a few examples. The point I am trying to make is that the advantages and disadvantages of the transfers have not been properly and systematically studied. We have seen contradictory and often politically motivated testimonies, but no systematic and distinterested analysis of the complex issues involved.

Mr. President, once the suggested study has been made, I may still be able to come out in favor of a Department of Education. There can be no question that our national educational efforts ought to be reviewed and strengthened. We are spending, on the Federal level, about $20 billion annually for education and Johnny still cannot read. Clearly, something is wrong. I believe a thorough and extensive examination of the issue is urgently needed and this is what my amendment, if accepted, would accomplish. It seems to me that the creation of a Department of Education without such an inquiry would simply be a bureaucratic escape from reality.

Mr. President, I ask for the yeas and nays and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I do not know whether the distinguished Senator from California is through.

The PRESIDING OFFICER. Does the Senator from California yield the floor?

Mr. HAYAKAWA. Yes, indeed.

Mr. RIBICOFF. Mr. President, I have the highest respect and admiration for the distinguished Senator from California. In his own right, he is a great educator and a great realist who understands not only education, but human nature.

Long before I met him in this body, I read his works. I use his textbook "Language in Thought and Action," and my admiration is of the highest.

I would like to point out to the distinguished Senator from California, when he talks about referring this bill to the Human Resources Committee, that 11 members of the Human Resources Committee are cosponsors, including the chairman (Mr. Williams) and the chairman of the Subcommittee on Education (Mr. Pell).

When we were ready to report out this bill, we deferred the reporting out of the bill for 2 weeks. We referred the bill informally to the Human Resources Committee where it was examined. Yet they came back with recommendations, lost in the Department, they quit in frustration.

I want to point out, too, that the Governmental Affairs Committee has been engaged in a serious, thorough, and ongoing study of the issues since January 1977. We heard testimony from 100 witnesses in 10 days of hearings, and we have debated the bill for a long period of time. I think it is time for Congress to act.

All I know is that from more than 40 years in one way or another with government, the only way to kill something and get rid of it is to create another study. I would say the archives of this Government have gathered thick with dust with the various studies made, and nothing has ever happened until another study covered the same ground.

So I see nothing to be gained by another study, and I oppose this amendment.

Mr. PERCY. Mr. President, I know our distinguished colleague from California is, himself, a preeminent expert in the field of education and has distinguished himself. But I think he would probably be the first to say that we can study things to death sometimes.

When I read carefully the statement of findings of the Congress as embodied in his amendment, I certainly concurred with many of those. But also when I looked to see what the study he proposes shall accomplish and do, it would seem to the Senator from Illinois a great many of those studies have already been take a look at the structure of the government for education to determine whether or not the structure assigns a high enough priority to education when it is buried so deep in a department that spends 95 percent or 94 percent of its resources in some other areas.

Three-tenths of our population is in some way involved in education—either as students, teachers, or administrators. Governmental expenditures for education at all levels will be more than $100 billion during this fiscal year.

In a Harris survey of last year, 89 percent of the public felt that "achieving quality education for children" was very important.

What has been the Federal response? Federal expenditures for education have actually declined, from approximately 12 percent in the late 1960's to a little more than 8 percent today. This has occurred at a time when school districts throughout the country are faced with severe financial difficulties. Many schoolchildren will miss valuable days in school simply because their school system is broke.

For some reason or other, we are not able to get adequate impact in school district after school district. Local referenda are turning down money for education. Education facilities are being contracted at a time when we should be strengthening them, if we assign high priority to them.

In addition, the Federal education effort is greatly fragmented, resulting in and we modified the bill to incorporate the recommendations of the Human Resources Committee.

I would also like to point out that the concept of a separate Department of Education has been around since the late 1860's. There may be more, but I know of 15 different studies over the last 60 years which touched on the issue in some detail. The last comprehensive study was by Rufus Miles, sponsored by the American Council on Education. This study recommended the creation of this department. In addition the Office of Management and Budget's reorganization project has been studying education reorganization for more than a year.

I would also like to point out that the chairman of the Appropriations Committee (Mr. MAGNUSON), who has had the responsibility for appropriations for HEW, which, of course, includes Education, is one of the most ardent, consistent, and passioned pleaders for this department, because he feels the time is long overdue.

I came out of the HEW secretaryship with the feeling this was a desperately needed creation, because it was lost in the Department of HEW. It is absolutely important that we create it.

I think the distinguished Senator from California can realize the low status that the Commissioner of Education now has when he considers that in the last 12 years there have been 13 Commissioners of Education. There has been complete frustration by these men of outstanding character and ability and national reputation as educators. When they saw that their position of commissionership was carried out ad infinitum and that we have now, finally, reached the stage where we are ready to bite the bullet and come down and reach a conclusion.

I think the Department of Education Act has been well thought through for many years, as my distinguished colleague, the manager of the bill (Mr. RIBICOFF), has said.

Certainly, education has always been one of my own highest priorities. I have been privileged to serve on the board of Cal. Tech. and the University of Chicago, now, for 30 years. I have worked intimately with primary and secondary education through the years and still consider it, as a U.S. Senator, one of the highest priorities on my own time that I should assign.

I think it should be one of the Nation's highest priorities, as well.

That has not always been the case, however. Presently, education has a relatively low status in the Federal Government.

It is a malnourished component of the Department of Health, Education, and Welfare, where only 6 percent of that Department's budget is devoted to education. In addition, the bulk of education programs in HEW are administered by a Commissioner of Education, and the Assistant Secretary of Education has few responsibilities and even less weight within HEW.

This is a question of national priorities. I think it is about time we really state that education must be one of our highest priorities. It is the duty and the responsibility of the Governmental Affairs Committeee of the U.S. Senate to an uncoordinated approach to solving the many problems facing our Nation's schools.

Just as we acknowledge that the strength of a nation rests with its people, we must also realize that its greatest natural resource is its children. We must do more to develop that precious resource. Raising education to a Cabinet-level position in our Government will symbolize our commitment to provide quality educations to all of our children. For that reason, I believe that the passage of S. 991 will be one of the most significant acts of this Congress, and urge its support by the full Senate.

It is extraordinarily difficult to know how a study will turn out. The Senator from Illinois really cannot [illegible] that we would not somehow have a [illegible] that would end up with the same conclusion, that what we really need in this country is a Department of Education. I think the time has come. The idea is here. This is the time to implement it.

For that reason—with deep regret and great respect—I oppose the amendment offered by the distinguished Senator from California.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I am glad to yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, with this amendment, I have a chance to sit back and listen to the colloquy, and a couple of additional thoughts come to mind.

One is that I cannot help listening to what the distinguished Senator from Illinois has just said, and I refer back to the colloquy that occurred previously among the Senator from Delaware, the Senator from Missouri, and the two distinguished floor managers of the bill.

I keep hearing two different signals. The first signal in the colloquy was that we were going to maintain State and local control. The second signal I heard was that we are going to increase Federal control and Federal funding and Federal priorities of education.

That is what has so disturbed me about this whole process: that in spite of the good intentions written into the purposes of this bill, unfortunately, the attitudes and the words and the statute itself are going entirely in the opposite direction.

I would only add to that an additional concern I have about this body, in my first session in Congress, and the distinguished Senator from Illinois has made the comment, also. We have access to the background and experience of the distinguished Senator from California. He is an educator par excellence in this country, in his field and related fields, and there is no one who anybody would put up against him. And what do we do? We reject his advice.

Time and time again in this body I have noted that when somebody has background and experience in a subject, that weighs for not one ounce in the deliberations of something that has been around for a long time.

That is what I am afraid, I say to the Senator, is the problem. The idea of a Department of Education has been around for a long time, and a few people Connecticut has said, this idea has been around for a long, long time. It has been discussed over and over again. It has not been acted upon for the precise reason that it is an idea whose time has not come and will not come for some time. It certainly has not come to the House.

The fact that the Commissioner of Education does not have a lot of power and authority does not mean that education has a low priority in this country. Education has enormous priority in every city, town, and village, most of whose taxes go to education.

It has enormous priority in every State budget which supports such enormous educational systems as the University of Texas system, the University of Wisconsin system, the two systems of the University of California. Education has enormous priority in this country, independently of the actions of the Federal Government.

I was told not long ago that the State of California was putting up one new community college a month, for the past couple of years. That may be an exaggeration, but it certainly is true that, all over California, we have seen community colleges proliferating.

Education has enormous priority in this country, and it is not dependent upon the commissioner of education in Washington nor upon a putative Secretary of Education in Washington.

What I am saying is that we should leave as much of it as possible in the hands of the regents of the various State university systems, in the private hands the course of my travels in the country as well as in the State of Illinois.

I again point out the shining example of how the Federal Government can grant money without strings and without controls in Federal revenue sharing. Let that be a shining example of how we collect money and then dispense it in such a way that we allow State and local government and the federal system of Government to use that money in a way which will best benefit the children for whom they have the direct responsibility.

Mr. SCHMITT. Mr. President, if the Senator will yield, I hasten to add that his record in this area is absolutely clear and commendable. I was merely listening to the words, and I would be the first to commend the distinguished Senator from Illinois on his efforts to move equality of opportunity into the educational system.

Equality of opportunity, I think the Senator will agree, does not always mean equality of funding. It means putting the funds in the places where equality can be bought, if you will. It is equality of opportunity by Federal funds.

I only add, though, that if primarily the Senator's intention is to have a department that distributes funds, then I think it is a mistake to make it a department. We can talk about that in connection with my next amendment having to do with agency.

However, unfortunately, that is apparently the primary focus of the creation of a Department of Education. It who were questioning that idea as an idea whose time has come cannot question it on the basis of our own background and experience in this field and say, "Hey, let's wait; let's pause and let's consider," as the Senator has proposed in his amendment.

Is this really the right study for this time in our history? Maybe it is. But, I, for one, am unconvinced. I think the Senator's amendment would give us that additional time to pause, to look at the issue objectively, if that is now possible, and I think it is, to look at the attitudes of our distinguished friends in the other body which are different from many of our own here. We can then decide whether this is really an idea whose time has come.

I think we will find that some polls now show that it certainly is not an idea whose time has come with the American people. I will discuss that shortly. The polls are not with the proponents of this bill. The polls are against them.

I certainly would take that into account in this election year, but it should be taken into account every election year, when it comes to creating a new departmental level bureaucracy.

I thank the distinguished Senator from California for yielding.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HAYAKAWA. Mr. President, I am grateful to the Senator from New Mexico for his comments and his raising the question about whether or not this is an idea whose time has come.

As the distinguished Senator from of the Governors and regents of the distinguished private universities, such as Harvard or Yale or Stanford or Cal Tech.

There are many people who are taking responsibility and pouring money into this.

The idea that all this activity can be coordinated by a Federal Secretary of Education seems to me totally illusory, and that is why this idea has been around a long time without having been acted upon.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, I would like to make one comment.

The distinguished Senator from California asked, "Why can't Johnny read?" All I can say is that if school districts required as part of their curriculum that every student read the works authored by the distinguished Senator from California, my feeling is that every Johnny and Susie in America could read.

Mr. PERCY. Mr. President, I should like to comment on a statement made by the distinguished Senator from New Mexico, in which he said a great deal has been said about increasing control and increasing the intervention of the Federal Government in the educational process in this country.

I want it a matter of record that at no time in the 30 or 40 years the Senator from Illinois has addressed himself to the problems of education has there been even the slightest hint of that. In fact, it has been totally to the contrary.

I do feel that we will have to increase our funding of education, and I have stated that flatly many times throughout appears to be dominated in fact in terms of sheer numbers by the takeover of the overseas schools now administered by the Department of Defense. It also has many other facets brought into it where projects and programs, Federal projects and programs, are being undertaken rather than the idea that we are going to take those steps necessary without interference with State and local programs to improve the quality of education.

I know that is the Senator's goal. I commend him for it and I hope that in other ways we can work together to see that that happens. I just find that I will have to disagree with him that this is the mechanism at this time.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. RIBICOFF. Mr. President, has the time been consumed?

The PRESIDING OFFICER. Time remains on the amendment.

Does the Senator yield back his time?

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from California yield back the remainder of his time?

Mr. HAYAKAWA. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I move to table the amendment of the Senator from California and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion is not debatable.

The question is on agreeing on the motion to lay on the table the amendment of the Senator from California.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 70, nays 14, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—70

Bartlett
Bellmon
Gravel
Griffin
Moynihan
Muskie

be happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New Mexico.

Mr. President, I am about to propound a unanimous-consent request on the ERA extension.

Mr. SCHMITT. Mr. President, may I ask a question? This is not on my time. I do not know how rapidly this request is going to go. If it begins to impact on the 9:30 time agreement, I hope there will be no objection to the continuation of our discussion on the Department of Education bill and amendments thereto.

The PRESIDING OFFICER. The Chair observes there are 1½ hours on the Schmitt amendment; 2 hours on the amendment by Mr. HELMS; 1 hour on a motion by Mr. HAYAKAWA to recommit, 4½ hours of time, and final passage no later than 9:30.

Mr. SCHMITT. That was my purpose in bringing this up.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time utilized in discussing the proposed unanimous-consent agreement not come out of the Senator's time, and that the time for final vote be modified accordingly, which means that if we take 10 minutes in this discussion the final vote will occur no later than 9:40 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Hart
Hatfield,
  Paul G.
Hathaway
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Wallop
Williams
Zorinsky

NAYS—14

Baker
Byrd,
  Harry F., Jr.
Garn
Goldwater
Hansen
Hatch
Hayakawa
Helms
Laxalt
Proxmire
Schmitt
Scott
Stevens
Tower

NOT VOTING—16

Abourezk
Allen
Anderson
Bayh
Curtis
Eastland
Haskell
Hatfield,
  Mark O.
Johnston
Mathias
McClure
McIntyre
Pearson
Sparkman
Weicker
Young

So the motion to lay on the table UP amendment No. 1952 was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. SCHMITT. Mr. President, I would

inally had thought would happen. I will also say that I do not believe I will call up my third amendment and, instead, will speak for a few minutes in general terms about the bill. We can move to final passage hopefully by 9:30, depending upon the response of any of the distinguished floor managers.

Mr. President, I guess it is fairly obvious by now that a few of us who have been involved in education as much as or maybe more than most have some very serious reservations about the action the Senate appears to be about to take if previous votes are any indication.

We have largely had our say. I just want to add to the final record a few of the comments of those who live outside these Chambers and offices.

I begin with the editorial comment of two of the major newspapers of this country, which, strangely enough, in recent years, I have found myself not agreeing with very much, but which illustrate the great diversity of ideologies that now seem to be joining together in opposition to this move toward a Department of Education.

The Washington Post, for example, wrote:

> The collection of various bureaucracies and instrumentalities into one seemingly logical place is a fairly common element of governmental-reform schemes—that has had at best mixed results. The bureaucratic bits and pieces that became HUD, for example, hardly underwent a galvanic revitalization by virtue of sharing a roof and a set of executive managers. And to look at either the Labor Department, say, or the Commerce Decreased to just nine departments in the first 160 years of our history. Yet, in the past 25 years, we have created four new departments with proposals pending for two more. Before long, the Cabinet will need to be superseded by another entity just to be manageable.

I draw my colleagues' historical attention to what the Romans learned empirically many, many centuries ago; that the No. 10 seems to have a very magic managerial connotation. That is that it is about the limit that human beings can deal with at any particular level. We are already at 12 Cabinet positions. We are seeking to create a 13th. As I said, there are proposals for even more.

The President, frankly, is saturated. All you have to do is look at the attention the President and the White House staff can give to certain other departments. They cannot give attention to departments nearly as much as we would like them to, depending on our own particular interests. This is not going to make the problem any easier. It is going to make it much worse. Rather than creating departments, we should be looking at how to break up some of the more unmanageable ones into independent agencies that can be responsible within certain bounds of the charter to the Congress. I hope that will become the trend once we have dealt with this particular problem of creating a Department of Education.

Mr. President, earlier today, I discussed the other organization of teach-

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the unanimous-consent agreement we will vote on final passage not later than 9:50.

The Senator from New Mexico has the floor under the agreement.

Mr. SCHMITT. In honor of this great feeling of cooperation and comity which has suddenly appeared in the Chamber of the Senate, I will do everything I can to get the vote off by 9:30 as we orig-

partment is to know that gathering units of government around a single large, controlling subject hardly guarantees their energy or efficiency.

We don't cite the Labor and Commerce departments casually: To the extent that they are basically one-constituency organizations of government, they provide another cautionary note. One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the schoolchildren and their parents affected by the federal government's education programs. Much more probably it would be the National Education Association, the organization of teachers and school administrators who already exert a great deal of influence on education policy in Washington. In a way, this would be giving them their own department.

The New York Times, in its editorial of January 16, 1978, wrote as follows:

> We welcomed the creation of the Department of Energy last year; it meant not fragmentation but centralization of functions scattered around the Government and dealing with an issue of overriding importance. There is no such sudden, overriding importance to justify creating a Department of Education. To do so would keep a campaign promise; it would tickle the education world's sense of importance; it could, at best, make present education programs more orderly and efficient. But it is hard to see, beyond that, what such a reorganization would do to benefit actual education.

Mr. President, I also add that just the problem of having an additional Cabinet-level person seeking the attention of the White House and the very concept of a cabinet has been eroded with the proliferation of executive departments. The original Cabinet of five departments in-

ers and administrators who are opposed to this bill. The NEA has often been cited as being in favor of it. Well, the American Federation of Teachers of the AFL-CIO is very undisposed toward this kind of legislation. I quote again:

> S. 991 will not result in increased coordination of Federal education efforts. What is likely is that a new Federal education department would magnify the Federal role in education policy decisions that have previously been viewed as state and local matters. Federal departments are designed to deal with policy and administration. There is, of course, a Federal system of justice for the Department of Justice to administer. The obvious need for national control over Defense and Foreign policy speaks for itself. Education, however, has traditionally been a state and local responsibility supplemented by an important but clearly limited Federal role. The Federal responsibility in education has been primarily to promote equal educational opportunity for historically neglected and unserved populations, such as educationally disadvantaged and handicapped youngsters, and to provide poor- and middle-income families with the financial aid necessary to pursue post-secondary education.
>
> Implicit in the creation of a Federal department is a new Federal role that exceeds these previous limitations.

Mr. President, I again emphasize and underline everything the AFT has said. Of course, the inclusion of the overseas school system as a major system of 135,000 pupils in the Department of Education exceeds these previous limitations on the Federal role. The inclusion of other educational activities of mission agencies in this Department again exceeds these previous limitations on the Federal role.

I think the AFT is particularly well qualified to discuss this matter, because, as the statement of Gregory Humphrey, codirector of legislation of that organization has said before the House Subcommittee on Legislation and National Security:

> The AFT represents more college professor members than any other organization in this country. we are deeply concerned with their point of view and they tend to be even more skeptical of this proposal than other AFT members. Twenty-five percent of higher education funds come from the federal level while only 9% of elementary and secondary education funds are federal. Research funds for institutions of higher education come from practically every department in the federal government. Their administration probably never could, or should be consolidated. We do not believe that post-secondary education would benefit from a federal department that encompasses an education division, of HEW and little else.

I add only in slight correction to that statement the fact that it includes much more than HEW. That is the education system now run by the Department of Defense, which, in fact, will constitute more than a majority of employees of the new department in its initial phases.

Mr. President, we have tended to forget those people out there in this debate who have to deal with the Federal bureaucracy. I should like to bring one such individual onto this floor by proxy, a Mr. Walter E. Smith, of the Los Alamos, N. Mex., School System, who, on his own, independently, having had a great deal of experience in that system, did a study bill—it costs something on the order of $2.2 million.

Illinois, the cost was almost $7.9 million.

Missouri, $3.4 million.

Oklahoma, $2.0 million.

New Mexico came in under $1 million, just barely, though; $968,000.

So the cost now, just with the activities within HEW, is running in those kinds of figures.

Again, I do not see right now that I can assure Mr. Smith that is going to change. In fact, I can only probably assure him it will probably get worse with the new Department.

But what about the people as a whole? We are getting close to the final vote on this, how are the people now looking at us—some of us, at least, as a condition for reelection—going to perceive this particular vote this evening?

Well, the question was asked by Mr. Gallup in his polls recently, published in September, 1977:

> In your opinion, should education be taken out of the present Department of HEW and made a separate dpartment of the Federal Government, or not?

Mr. President, the national totals were as follows: Those who favor making education a separate department, 40 percent; those opopsed, 45 percent. The don't knows and no answers were 15 percent.

If we look at a breakdown of that in terms of those who have children in schools, it was 40 to 42 opposed. Those parents have some control over their election. I am afraid my constituents are asking what control they will have over the Department of Education, another large group of unelected bureaucrats.

The feeling is in this Senator's mind, and I believe in the minds of many others, that national standards will come, that national tests will fall, national curriculum will soon fall behind.

The Federal control and the concept of big brother in education is very rapidly coming upon us.

As I said earlier when I first began this discussion, it is diversity in education and local control of that diversity that has made this Nation's educational system second to none. It should be our attempt to improve and increase the ability of our educational systems to tap diversity, rather than taking any step such as this one toward the homogenization of the educational system of this great country.

Mr. President, I appreciate the indulgence of the managers of this bill. I think we have had a good discussion. I think the record will be useful for whatever purposes our friends in the other body may put it.

I do hope they will protect us from ourselves on this issue, at least for this year, and maybe next year, with due consideration, some other means can be found to better coordinate, better control, the educational activities that are presently somewhat out of control in the Federal Government.

The distinguished Senator from Con-which he entitled "Federal Regulations and Paperwork: What Is the Cost to Local Educational Agencies?"

I quote now from his introduction to that study:

> Educators welcomed federal aid to education because it permitted program expansion and improvement. However, greater direct federal involvement in education has created additional work for educators at all levels. Local educators are questioning the value of the funds received because of the problems created by regulatory demands.
>
> More and more regulations have been imposed upon school districts for project preparation and evaluation, which has resulted in increasing demands on educators' time. The amount of required paperwork is astounding, and becoming greater each year. An example of burdensome federal regulatory demands is evident in the redundancy of project applications. The school district must prepare and submit demographic information for each and every federal project. Educators must comply with these regulations—there are no alternatives. Complaints of these redundant procedures seem to fall on deaf ears.

Mr. President, somehow, I am supposed to assure Mr. Smith that joining all of this together in one big super bureaucracy is somehow going to improve or eliminate the problem they are faced with.

I would just quote to my colleagues here on the floor Mr. Smith's compilation of the cost of complying with Federal regulations by State at the present time, and based on a weighted sample cost per student of $3.46. This would be the figures, I believe, for 1977.

Connecticut—the distinguished Senator from Connecticut is managing this public school parents, 40 to 49 opposed. Those parochial school parents, 42 to 47 opposed.

So, however we look at it, the people now appear to be close, but still significantly opposed to this particular effort.

Finally, Mr. President, all the evidence that I am familiar with, after many years in the educational systems and many years as an observer and researcher on educational problems outside the context of the committees of the Congress, indicates to me that the Federal presence in education should be reduced and not increased .

There is no question that the efficiency of education, that is, the time a good teacher has to spend with a child, is going down, largely because of the Federal presence in education, there is no question in this Senator's mind, after working with the educators and teachers of New Mexico.

In addition, it is claimed in the report on this measure that there will be no new regulatory impact because of this bill. If there will not be, why do we need 50 new supergrade positions attached to this agency?

I am afraid, Mr. President, every parent will regret our actions if they lose more and more controls over the lives of their children to the Federal Government.

We are, in fact, bucking the general trend that I think all of us are beginning to feel very strongly against big, impersonal Government.

Our casework that we perform for our constituents is almost entirely dealing with the impersonality of Government.

Local school boards are elected and necticut, the distinguished Senator from Illinois, are to be complimented for their sincere efforts in putting together a bill of this kind. I am very sorry that I cannot agree with them that this is the right approach. I would much rather agree with my colleagues than disagree. But, nevertheless, they have put in a great many years on this effort and that effort must be recognized for its sincerity.

Mr. President, I reserve the remainder of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment has not been called up.

Mr. SCHMITT. I request the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, the Schmitt amendment strikes at the very heart of this legislation.

The 62 Senators who have cosponsored this bill recognize that education is an important, fundamental function in the United States. It directly involves more than one-quarter of our population every day.

Cabinet status means improved accountability—something we rarely get from the education officials buried in the bureaucracy of HEW.

Cabinet status drastically improves the access of our highest ranking education official to the President. It actually encourages and demands Presidential involvement. When the President wants to get involved in education at the Federal level, who can he go to? The HEW Secretary will be too busy administering the other $170 billion in his large department. The education officials four levels below have virtually no policy responsibility.

Education in the Federal Government has the size, scope, and character to deserve Cabinet status. This new Department, which will not gain any new programatic authority under this bill, will rank in size larger than six existing Cabinet departments.

Cabinet status attracts the most capable and qualified leadership. I consider the U.S. Office of Education an "independent agency" within HEW. But that agency has a hard time holding onto its leaders. The Commissionership of Education, for example, has changed hands 13 different times in the last 12 years.

In our hearings on this bill, most State education officials told the committee they could not afford to take the top Federal education post. It is a terribly frustrating job. Giving education continued independent agency status would do little to improve this situation.

Cabinet status means improved coordination of Federal education programs. It has been said that the greatest coordinating body of all is the Cabinet. This bill consolidates more than 170 education programs in one department. Another 100 will stay outside, mainly because they are integrally related to the mission of their parent agency. Co-

But in the case of education, there is a sore need for a Cabinet department.

Basically, the whole point of this legislation is to elevate the status and improve the management of education in the Federal Government. The Schmitt amendment would have the effect of maintaining the status quo.

As floor manager of the bill, I strongly oppose the Schmitt amendment.

Mr. President, I ask unanimous consent that Leon Billings and Jim Case of Senator MUSKIE's staff, Al From and Jim Davidson of the Governmental Affairs staff, and Karl Braithwaite and Robert Van Heuvelen of the Environment and Public Works Committee staff be accorded privileges of the floor during consideration of and votes on S. 991, the Department of Education bill, S. 3077, the Export-Import Bank bill, and House Joint Resolution 638, the equal rights amendment extension.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. After the colloquy, I will yield 7 minutes to the distinguished Senator from South Carolina.

I yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I appreciate the courtesy of the Senator from Connecticut.

I am concerned, as others are, about transferring responsibility for vocational rehabilitation at the Federal level to the new Department. I support the creation of the new Department. I am concerned about the effect the transfer

Mr. BELLMON. I thank the distinguished floor manager.

I should like to propound an additional question:

Do the managers agree with me that the Senate's decision to move vocational rehabilitation into the new Federal Department of Education reflects no judgement at all about the proper locus of responsibility for that program at the State level, and that, to the contrary, it would be advisable to accept the judgements of Governors and State legislatures about organizational arrangements for the program?

Mr. RIBICOFF. Once again, the Senator from Oklahoma is correct. The transfer of vocational rehabilitation programs to the Department of Education was made by the committee because it believed such a move would consolidate Federal programs directed toward the education of the handicapped and would provide a continuum of rehabilitative services for the handicapped children and adults at the Federal level. This transfer makes no judgment at all about the locus of responsibility for these programs at the State level. I certainly agree it is advisable to accept the judgments of Governors and State legislatures about organizational arrangements for these programs at the State level.

Mr. BELLMON. I thank the floor manager of the bill. I am greatly reassured by his response.

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from South Carolina.

ordinating all these programs will be a difficult job which only a strong, high-level Cabinet Secretary can do.

If education is relegated to independent agency status, I fear the chances are great we will never hear or see our top education officials again. They would be ignored and forgotten by higher-ranking Cabinet Secretaries and the President.

Making education an independent agency would only serve to isolate education even more from all the other agencies and departments having related human services functions, when what we really should be doing is developing more linkages.

Cabinet Secretaries can relate to one another because they are on an equal footing with one another, and they all share in the high honor and duty of being a member of the President's Cabinet. These good working relationships simply would not exist between Cabinet Secretaries and the head of an independent education agency.

The Governmental Affairs Committee, which is charged with creating and abolishing agencies, has studied this bill thoroughly. The committee unanimously recommended the creation of a Cabinet post, because the institutional deficiencies can only be remedied through Cabinet status.

We could have recommended Cabinet status for the consumer protection agency, or a Cabinet Department of Administration in place of GSA—but Cabinet status was clearly not warranted in those instances.

may have upon the administration of vocational rehabilitation at the State level.

I believe that it is critically important that we interfere as little as possible in decisions such as State government organization. There are dramatic differences among States, constitutionally and in terms of organizational necessities. I want to be certain that we are not treading on this dangerous ground. To this end, I would like to ask the distinguished floor managers two questions: first, am I correct in my understanding that Senator CHILES' amendment specifically precludes the Federal Department of Education from attempting to influence State decisions as to where the vocational rehabilitation program will be administered?

Mr. RIBICOFF. The distinguished Senator from Oklahoma is absolutely correct. The committee believed that because the focus of many of the programs at training, and training is directly related to education, these programs would best be joined with those administered by the Buerau of Education for the Handicapped in the Department of Education at the Federal level. However, the committee intentionally did not suggest where these types of programs would best operate at the State level. In fact, Senator CHILES' amendment, adopted unanimously by the committee, specifically states that nothing in the section establishing the Office of Special Education and Rehabilitative Services shall require any particular organizational structure of vocational rehabilitation programs at the State level.

Mr. THURMOND. Mr. President, I have always been a supporter of a strong and effective educational system in this country. With the insight provided as a former school teacher, high school coach, and county superintendent of education, I can attest that the education of our children is one of the most important goals of a continuing free society. As a State senator and as Governor, I initiated and supported many laws advancing education in our State, such as the area trade schools, which were the foundation of our present technical school system, the best in the Nation.

Over the years, as a citizen, I have illustrated my deep concern for education by using my honorariums, and other funds which I obtained, to establish 27 scholarships in 23 educational institutions in South Carolina for the benefit of needy, worthy students. Also, I established the Strom Thurmond Foundation to aid needy, worthy students to attend college or technical schools, and it is now assisting between 40 and 60 young people a year to further their education and training.

Therefore, Mr. President, as I rise today in support of S. 991, which establishes a separate Department of Education, I speak not as a politician in Washington aloft from the real needs of education in this country, but as one who has been there and who is aware of the needs and importance of education.

Yesterday, this body passed the Labor/HEW appropriations measure, the second largest appropriations bill to come before the Congress. The budget of

HEW will rise to about $180 billion this year, which is more than one-third of the entire Federal budget. In such a large department, it is understandable that one segment could be the victim of neglect.

An examination of the hearings on this bill illustrates time and time again that the primary interest of HEW has been with health and welfare programs and not with education. In the $180 billion budget I mentioned earlier, at least $168 billion will be expended for health and welfare. Mr. President, that leaves only $12 billion, or a mere 6 percent of the total HEW budget for education. This is not, of course, to cast a bad light on health and welfare programs because they are very important parts of the Department; but the point is that education needs to be placed in a separate department not dominated by these other programs.

There are other concerns which mandate a separate department of education. The $25 billion that this Government will spend on education this year will come from more than 300 separate programs operated by nearly 40 different Federal agencies. Under this system, each agency promulgates its own rules and regulation and its own paperwork requirements.

The overlap and duplication that inevitably occurs due to these administrative burdens are a tremendous hindrance to the educators over this country in performing their duties. This legislation will stop this fragmentation confident they will do as I will do and vote favorably on this bill.

In closing, Mr. President, I compliment the able and distinguished Senator from Connecticut and the able and distinguished Senator from Illinois for the excellent job they have done on this bill.

● Mr. ROTH. Mr. President, I would like to clarify a matter with the distinguished chairman of the committee about this bill regarding the applicability of the Eagleton-Biden anti-busing amendment to the expenditure of funds by the new Department of Education. Mr. President, the fiscal 1979 Labor-HEW appropriations bill, H.R. 12929, as passed by both the House and the Senate, contains language identical to that contained in previous HEW appropriations bills. This language prohibits HEW from using any funds to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

Section 501(a) of the Department of Education bill we are considering today provides for the transfer of unexpended funds for education functions to the new Department as follows:

> Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

It is my understanding from this language in S. 991 under section 501(a) that the Eagleton-Biden amendment as enquires that any appropriated funds transferred to the new Department shall be subject to the identical restrictions and requirements they were subject to when originally authorized and appropriated. As far as the Eagleton-Biden language is concerned, this means the new Department of Education would be prohibited from expending any funds transferred to it from the HEW appropriations bill so as to require busing of schoolchildren under title VI of the Civil Rights Act of 1964. We would expect that no funds which have been appropriated under different measures for any functions transferred to the new Department could be used to circumvent the intent of the language of the Eagleton-Biden amendment.●

● Mr. CULVER. Mr. President, as a cosponsor of S. 991, I am pleased that the Senate is considering this legislation to create a U.S. Department of Education. After years of discussion, the concept of a separate Department of Education has finally received the serious consideration and widespread endorsement it deserves, and its consideration by the Senate today indicates the high priority of our educational needs.

The Committee on Governmental Affairs has conducted extensive hearings on S. 991, which demonstrated the broad support for this proposal. During the course of these hearings, excellent arguments in support of such a Cabinet-level agency were made by many experienced educators and administrators.

and duplication and join all of these functions under one roof where they can be administered more efficiently and effectively.

Mr. President, with the creation of this new Department, we will have a responsible, high-level Federal official whose only concern will be education. This person will be held accountable not only when there are advances in education, but also when there are failures. Education will have an advocate in Washington for its needs and to work hard toward solving its problems. When the Congress or the public desires to inquire into the status of education in this country, there will be one central office, a Cabinet-level Department, from which the information can be obtained.

Finally, Mr. President, I want to emphasize my understanding that this bill, with all of its benefits through centralization and effective management, will not mean more control. I am bitterly opposed to Federal control of education. By this, I mean that the policy decisions and curriculum to be taught in local schools will remain at the State and local level where it belongs. A new Department of Education can do an important job by assisting the States and localities without infringing on their rights to establish their individual educational needs.

Mr. President, today we have a great opportunity to advance the role of education in our country more significantly than ever before. The establishment of this new Department will be a sign of our unabating commitment to education. I urge my colleagues to examine the need for this legislation closely, and then I am acted as part of the fiscal 1979 Labor-HEW appropriations bill prohibits the new Department of Education from using any unexpected funds transferred to the Department to require, directly, or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

Furthermore, because the language in section 501(a) stipulates that unexpended funds which are transferred to the new Department may be used only for the purposes for which they were originally authorized and appropriated, I am given to understand that functions which are transferred to the new Department that have been funded through other different appropriations measures may not be used to circumvent the intent of the language of the Eagleton-Biden amendment by using the moneys contained in these measures to require, directly, or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

I wish to ask the Senator from Connecticut if I am correct in my understanding of this matter.

Mr. RIBICOFF. Mr. President, I would answer the Senator from Delaware's question on the application of the Eagleton-Biden antibusing amendment as enacted, to the use of appropriated funds by the Department of Education, as follows: Yes, it is clearly the intention of this legislation and the intention of the committee in drafting the bill that section 501(a) of this legislation clearly re-

While there have been varied opinions as to the structure of the new Department, I am confident these differences will be resolved during this debate, and that we will move closer toward our goal of assuring effective and equal educational opportunities for all Americans. The needs of education have greatly increased during this century, and today it is one of our most important public investments. More than 50 million people in the United States are directly involved with education today. When HEW was first established in 1953, the budget of the Office of Education was $400 million, and today it has a budget of $12.8 billion.

S. 991 is designed to consolidate and coordinate the education programs which are currently scattered throughout the Department of Health, Education, and Welfare (HEW) and other departments. The Secretary of HEW must deal with such vital public issues as social security, welfare reform, and health care in addition to education, and cannot always give the necessary attention to the demands of contemporary education because of the complexity of these other responsibilities.

In addition to the vast educational network at HEW, there are over 100 educational programs scattered and fragmented throughout more than 40 other Federal agencies. This legislation would provide an effective framework for managing these programs and for reducing the present waste and duplication that ultimately lowers the quality of education.

A major goal in establishing a separate Department of Education is to provide a cohesive structure which will simplify the administrative procedures for recipients of Federal education funds. I have heard countless complaints from State and local school officials in Iowa about the confusing mandates being passed down to school systems and about administrators going from agency to agency for program support. S. 991 is designed to eliminate these unnecessary problems and provide for improved cooperation between Federal, State, and local education agencies. Our educational services would be more efficient.

This legislation would strengthen the Federal Interagency Committee on Education to assure coordination of Federal programs affecting education, and would establish an Office of Inspector General to supervise auditing and investigative activities in the Department. In addition, it establishes an Intergovernmental Advisory Council to assist the Secretary in the formulation of education policy and to review the administration and operation of Federal education programs.

Mr. President, by giving Cabinet-level status to education, we are not only providing an uninterrupted focus for establishing a coherent Federal policy but we are also expressing a national commitment to meeting the educational needs of all Americans. Many Iowans have expressed their strong support of this vital legislation to me, and I am confident it will greatly enhance the quality of education in the United States. I commend Senator RIBICOFF and the other members of the Senate Governmental Affairs

The able floor manager of this bill, Mr. RIBICOFF, has already described the provisions of this measure, and I do not intend to repeat the details of this reorganization. I would, however, like to make some comments as to why I feel strongly that we need a Cabinet-level Department of Education.

I believe that the Federal involvement in education, with its primary goal of equalizing opportunities for all citizens, is a commendable one. These programs have made a great difference in the education of many socially, physically, and economically handicapped children.

But the price for these benefits has often been confusion, fragmentation, duplication, delay, and general frustration with the paperwork and painstaking slowness of Federal bureaucratic processes.

Federal regulations require days, even weeks, of administrative time, often at great expense to school systems. But the mandates do not stop at the administrative levels. Teachers also must spend hours of their time in complying with Federal requirements and completing nebulous and often inane forms when time and effort could be better expended in fulfulling the educational needs of the students.

And all of this time and effort is expended at a price. Only 8 percent of the cost of public education is assumed by the Federal Government.

There is a reason for the burdensome paperwork, for the regulations and for the guidelines. It may not be a good

> The Commissioner is an executive level 5 in the government structure, and in HEW that is one of the lowest forms of human life.

He also stated that during his 2 years' service as Commissioner of Education, he had the opportunity to meet directly with President Nixon on only one occasion and that was when he was appointed.

This is just one sad example of the frustration of being U.S. Commissioner of Education, and is perhaps one reason why this job changes hands so much. The Commissioner of Education has almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. He is buried within the HEW bureaucracy with very little access to the Secretary of HEW, much less anyone higher.

All the aforementioned problems describe a generally deplorable situation, yet, such is the state of education at the Federal level. It is incumbent on us now to take steps to remedy this problem.

I believe that the first step we must take is to establish a Cabinet-level Department of Education. I am not going to pretend that I believe that a separate Department of Education will solve all our educational problems or guarantee that the quality of these endeavors will be improved. But I do strongly believe that an identifiable, Cabinet-level department which consolidates existing programs, streamlines administration

Committee for their dedicated efforts to bring this bill to the floor of the Senate this year, and I urge my colleagues to approve S. 991.●

● Mr. NUNN. Mr. President, I rise in support of S. 991, the legislation to create an independent Department of Education in the executive branch of the Government.

As an original sponsor of S. 991, I feel that the establishment of a separate Department of Education is a needed and sensible step in our efforts to improve the administration and oversight of all educational programs and policies for the Federal Government. S. 991 is not the first legislation which has been introduced in Congress to create such a Department.

Senator RIBICOFF, the primary sponsor of this bill and the able chairman of the Governmental Affairs Committee, introduced such a measure in the 89th Congress. But I believe that the need for such a Department has become more apparent in the last 10 years when the role of the Federal Government in education has expanded. Today, we bring this bill to the Senate floor with over 50 bipartisan cosponsors who share the view that our Government has no national educational policy and no coordinated system of providing educational services to the State and local educational agencies, our colleges and universities, and most importantly, our Nation's youth. It is our hope that a separate Department of Education will help alleviate this problem and bring some guidance to our fragmented educational programs.

reason, but it is a simple one. The paperwork, the regulations and the guidelines fill the vacuum created by the unconscionable absence of a Federal education policy.

This is not the fault of the executive branch alone. In a very real sense, Congress must share the blame, because Capitol Hill is responsible for the extraordinary fragmentation in education programs that is now so severe that only a reorganization of Government can respond to the problem.

For example, in addition to the education division of the Department of Health, Education and Welfare, 37 other departments and agencies run 130 education programs of their own. We have also played musical chairs with our Commissioners of Education—there have been 13 individuals holding this position in the past 13 years. With continuity of leadership like that, there is little wonder that bureaucrats write regulations, guidelines and prepare new forms to their hearts content.

And, although the Secretary of HEW is ultimately responsible, it is difficult for even the most competent and concerned HEW Secretary to be a real spokesman for education when the massive health and welfare needs, with their concurrent extraordinary expenditures, demand all his time and energies.

But not only is the Commissioner of Education's responsibilities fragmented his voice and opinion have little authority and receive little attention. In hearings on the Department of Education which I chaired in the Governmental Affairs Committee, former Commissioner of Education Terrel Bell, testified:

and establishes direct lines of authority can go a long way toward the improvement of education.

But even more importantly, Congress and the American people need a visible, responsible, high-level Federal official who can be held accountable for the successes or failures of educational programs and policies at the Federal level. Education also needs a strong advocate in the executive branch to delineate its priorities and to assist in solving its problems. A Department of Education can go a long way toward meeting these needs.

But I feel I must take a moment to emphasize that the effective management which will accompany a Department of Education should not mean more control. The Committee on Governmental Affairs, with my strong concurrence, has stated emphatically in its report on the Department of Education bill that the responsibility for education policy and curriculum will remain at the State, local and private levels. However, a Secretary of Education can mean improved accountability, coordination and advocacy, all of which are important if the Federal Government is going to make its involvement in education meaningful.

As I previously stated, the Department of Education is by no means a new idea, but during the 95th Congress, it has come to life. The Governmental Affairs Committee held 10 days of hearings on this measure and heard from more than 100 witnesses. The committee has also received excellent cooperation from the administration in the development of a workable reorganization proposal.

I would like to commend Senator RIBICOFF for his excellent leadership in introducing and encouraging the passage of this measure. I would also like to thank Miss Marilyn Harris and Mr. Bob Heffernon of the Governmental Affairs Committee staff for their dedication, cooperation, and diligence in formulating a measure which will best serve the needs of education in our Nation.

Education is an investment of no small measure in our Nation. In 1977, the American people spent $140 billion on education—this is 8 percent of our gross national product and more than we spend on national defense. Today, nearly 3 out of every 10 Americans—63.7 million citizens—are directly involved in education. And, education is by far the largest expenditure of State and local governments, accounting for more than one-third of their budgets.

The bill which we are considering today reflects the goals and concerns of citizens throughout our Nation who are interested in improving education opportunities and wisely spending our educational dollars. I believe that the result of the long months of work on S. 991 is an excellent measure which will reorganize our Federal educational effort, reduce fragmentation, give priority attention to these urgent needs and provide more responsive educational services to the youth of our Nation.

Mr. President, I urge that the Senate adopt this important legislation.●

● Mr. DOLE. Mr. President, I support S. 991, a bill which would create a new Department of Education. Today, in these times of higher costs for education and lower productivity, education in America is facing great difficulty. Teachers are often overburdened, students apathetic, and parents often apathetic. The results of standardized achievement tests show a steady decline in test scores. In reaction to this phenomenon, any number of theories have been formulated to explain where education has gone wrong. Over and over again, the suggestion is made that a separate Department of Education would help the situation. If this were to be done, education would receive a new visibility and an enlarged realm of influence which should help bolster education programs.

FEDERAL SPENDING

Federal spending has increased many times over from the days the Office of Education was created within the Department of Health, Education, and Welfare in 1953, and when it operated on a $400 million budget. Under President Johnson and his initiatives in social legislation, Federal spending for education increased 10 times over, reaching $4 billion. Now, Federal spending in this area is about $10 billion annually. Given this tremendous surge in Federal spending, it is clear that the Congress perceives education as a legitimate national concern, and one which merits Cabinet level attention.

Mr. President, I do not think it is overstating the situation to say that the future of our country rests on our educational system. Every day, millions and millions of children—the Presidents, Senators, professors, journalists, and engineers of the future—sit in classrooms across America and absorb or fail to absorb intellectual concepts and ideas. I cabinet level Department of Education. The impetus behind a separate Department of Education has been growing for approximately 125 years. Nourished with this record of longevity, the idea of a new Department of Education has grown more attractive in recent years as we have watched the proliferation of education programs become entangled in the bureaucracy of the Department of Health, Educaton, and Welfare.

Much work has gone into this bill, and I appreciate the efforts of my colleagues as they have worked to insure that just those programs which are most pertinent to education are included in the new Department. I especially want to thank the Senator from Illinois (Mr. PERCY) for his efforts to delete the nutrition programs from being included in the Department.

Several Members were quite concerned that if this component was in fact transferred to the proposed Department as the original bill mandated, nutrition programs would no longer have the heavy emphasis placed on them which they are now beginning to receive within the Department of Agriculture. I just want to take this opportunity to express my appreciation to Senator PERCY and his staff for all of their efforts on the amendment to delete nutrition programs from the list of services being transferred.

PROBLEMS IN EDUCATION

Most parents and educators have serious concerns about the state of education in the United States today. Few persons, if any, are satisfied with their public school system. Students are often disruptive, teachers often unmotivated, believe it is our responsibility to see that these young citizens receive the best education we can provide, and I feel that a new Department of Education is one way toward that goal.

CONCLUSION

When I look at the many studies which have been done on the question of whether or not a separate Department of Education is in our Nation's best interest, I am impressed with the near unanimity with which researchers have answered "yes." This topic has been debated throughout this century, and I am hopeful that by a favorable vote on S. 991, we are taking a sizeable step toward improving the educational structure in our government.

I share with the sponsors of this bill a feeling of anxiety over the future of our educational process, and am pleased to join with them in this effort to come to grips with the programmatic shortcomings found in the Office of Education.●

● Mr. HEINZ. Mr. President, I join my colleague and the distinguished chairman of the Governmental Affairs Committee, Senator RIBICOFF, in support of S. 991, the Department of Education Act of 1978, and I strongly urge its passage by the Senate.

As one of the original cosponsors of the bill, I am committed to the idea of giving education the high status and visibility it rightly deserves in the Federal Government.

Education in the United States is the key to higher living standards for millions of people. We must work therefore to provide equal education and training opportunities for all Americans. At present tirely solve the problem, it is the necessary first step in the right direction.

I am pleased that President Carter has given his full support to the creation of the Department of Education. It is my strong hope that, in the spirit of cooperation and compromise, we can complete action on this legislation before the end of the 95th Congress.●

Mr. BAKER. Mr. President, as a cosponsor, I am pleased to rise in support of S. 991, legislation which would create a new Department of Education. I want to commend my colleagues for the imagination and exhaustive effort that has gone into this landmark legislation, particularly the distinguished chairman of the committee, Senator RIBICOFF.

S. 991 marks a new and exciting day for education in the United States. I believe it will help to usher in an era of improved coordination and cooperation in education programs across the country.

One need only look at the declining test scores in our schools and the multitude of education programs to realize that a change in this area is necessary. As an ardent advocate of high educational goals, I wholeheartedly embrace the concept of a separate Department of Education.

It is essential that the Federal Government be organized in such a way as to maximize the educational opportunity for everyone. While I generally oppose expansion of the Federal bureaucracy, I am more concerned with the effect of unorganized, uncoordinated and inefficient Federal education programs. That is the system that exists today. Our present education system consists of hundreds of Federal programs which are now located in more than 40 different agencies. This bill will bring the vast majority of these programs into a central and cohesive working organization at the Cabinet level.

While differences may exist as to which programs ought to be included under the umbrella of the new Department of Education, the need for a separate Cabinet-level Department is unquestionable.

Education like charity begins at home. For this reason I feel that the decisions concerning education should remain as close to home as possible—that is in the hands of local school boards. I have no desire to see the Federal Government assume a central or controlling role in our educational structure. Rather I believe that we must maintain a decentralized approach to education.

At the same time I realize that many Federal programs are not being effectively utilized because of a failure on the part of the Federal structure to coordinate its role in the educational system. It is my sincere hope that this Department will allow the Federal Government to become an effective and efficient partner in the educational process.

Mr. President, S. 991 has had a broad base of support since it was first introduced in this Congress. Members on both sides of the aisle have joined as cosponsors of this legislation. Educators and educational organizations have joined in enthusiastic support of this measure.

ships and reinforce old ones that will enhance the role of the States and local communities in educating our Nation's children.

As our society has developed, the economic aspects of education have undergone a radical transformation. By the mid-1980's the United States will be spending more than $150 billion annually on education—the primary activity of more than 63 million Americans. With a population of over 200 million people, nearly 3 out of every 10 persons are directly involved in the schooling of our citizens. If any area requires national attention and Cabinet-level status in our Government, it is education.

Education is the most valuable instrument at our Nation's disposal to enrich individual lives, offer economic opportunity and to enhance social justice. And the contemporary educational system goes far beyond our formal schools, colleges, and universities. Ancillary educational resources at our disposal are both diverse and substantial. We cannot ignore the important role of other institutions such as families and churches, libraries and museums, radio and television networks, journals, books and newspapers, the workplace, cultural and arts institutions and community organizations. In order to reflect more accurately the reality of education in today's America where learning and teaching are lifelong activities, we must recognize the need for broad and innovative approaches and opportunities for learning experiences outside the traditional

I am especially pleased with S. 991's creation of the Office of Occupational, Adult and Community Education. This Office will provide for the effective administration of Federal vocational, adult and community education assistance to State and local programs. A broad-based Department of Education will bring into sharper focus the wide range of Federal educational programs.

A Department of Education must also have a strong science education component. My colleagues well know the current decline in the quality of science and mathematics education in our schools. The program being transferred will provide the Department with an opportunity to grapple with this problem especially in the areas of teacher training, student orientation to science, institutional support, science education research and development, and public understanding of science programs. These programs fit well into the scope of the new Department and can enhance the Department's Office of Educational Research and Improvement.

We in the United States are concerned with the lives of our youth and the future of our Nation. It is our obligation to correct the persistent problems that prevent students from achieving their potential and from obtaining the best possible preparation for life that our country can offer. A Department of Education can provide the kind of leadership and coordination necessary to approach these goals. I strongly urge my colleagues to support this legislation.●

In my own State, the Tennessee Education Association feels that this legislation is the most important education measure we have considered in many years. I share that view and am proud to cast my vote in favor of the establishment of a new and necessary Department of Education.

● Mr. WILLIAMS. Mr. President, I am pleased to support this legislation to create a separate Department of Education. As chairman of the Human Resources Committee, I wish to commend the Governmental Affairs Committee for their efforts in working with us on this legislation.

The education of our children and students is vital to the future of the United States. Since the beginning of the Republic, our Nation's leaders have recognized the importance of education for the sustenance of a free democratic society. We can be justly proud of the accomplishments of our educational system. It has provided opportunities for economic advancement for generations of citizens and provided the skills and knowledge required to make the United States competitive in business and commerce with the rest of the world.

Early in the history of this country the tradition of State and local control over our schools was established. This tradition must be perserved, and the Federal commitment to education strengthened. We can assist in accomplishing this goal by establishing a Cabinet-level Deparement of Education. It is time for us to create new partner- classroom and educational institution. Similarly, the responsibility for our students does not stop at the classroom, but extends to all of the services provided by our schools.

One responsibility of a Cabinet officer is to bring a departmental perspective to solving our Nation's problems. For example, during the national gas shortage 2 years ago, the Secretaries of Treasury and Commerce stepped forward to minimize the negative effects on business that gas allocations would cause. However, there was no one to consider the effect on the public schools, hence a number of schools were unnecessarily closed during the energy crisis, temporarily bringing classes to a halt. Paradoxically, more energy was consumed by students at home than they would have experienced in schools with moderately lowered temperatures.

Further, changes in the way the Unemployment Trust Fund treats State and local governments could seriously affect the ability of schools to provide services. Yet when such changes are proposed, no Cabinet officer has the interests or the undivided time to represent the interests of education.

Education, as an enterprise, is experiencing a period of enormous revision. Competition for resources has increased, severe inequities in financing education still exist, while demands for increased excellence and quality must be addressed. The establishment of a Department of Education will provide a better administrative mechanism through which the Federal Government can tackle these national problems.

UNANIMOUS-CONSENT AGREEMENT TO STRIKE DOMENICI UP AMENDMENT NO. 1841 FROM THE BILL

Mr. RIBICOFF. Mr. President, in conformance with the Stevens amendment, which was adopted a few moments ago, I ask unanimous consent that Senator DOMENICI's unprinted amendment No. 1841, with respect to Indian education, be stricken in its entirety from S. 991.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think it is very near the time to vote. I certainly hope we have a reasonable turnout for that vote.

I shall finally add two points to the record before the vote.

One is that we are dealing with a constitutional issue, and I think that will be discussed further in the next Congress, assuming that our colleagues in the House of Representatives do their duty.

Second, the taxpayer is going to find an additional burden imposed upon him.

The estimate is now that the additional cost of this department in fiscal year 1979 will be $3.3 million; fiscal year 1980, $5.7 million; fiscal year 1981, $8.3 million; fiscal year 1982, $10.441 million; and fiscal year 1983, $11.1 million.

I think Senators can see where that trend is going to. It is going to have a significant economic impact and have a significant regulatory impact.

I urge my colleagues to consider twice and vote against final passage.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. RIBICOFF. Mr. President, I think that we have before us no committee amendment.

Mr. SCHMITT. I think there is some confusion on that.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. The Senator from New Mexico did not offer his third amendment.

The PRESIDING OFFICER. That is correct.

The vote was on the committee amendment, as amended, in the nature of a substitute.

Mr. RIBICOFF. The Senator from New Mexico did not offer his amendment?

Mr. SCHMITT. I did not offer my third amendment. I am sorry. I guess the Senator from Connecticut missed that point.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

ator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from Utah (Mr. GARN) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Utah would vote "yea" and the Senator from Arizona would vote "nay."

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 72, nays 11, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—72

Baker
Bartlett
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chafee
Chiles
Church
Clark
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Griffin
Hart
Hatch
Hatfield,
Paul G.
Hathaway
Heinz
Hodges
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Wallop
Weicker
Williams
Zorinsky

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. The vote now is on final passage.

The PRESIDING OFFICER. The Senator is correct.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today.

Mr. STENNIS. Regular order, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Sen-

NAYS—11

Byrd,
  Harry F., Jr.
Hansen
Hayakawa
Helms
Laxalt
Morgan
Moynihan
Proxmire
Schmitt
Scott
Tower

NOT VOTING—17

Abourezk
Allen
Anderson
Bayh
Curtis
Eastland
Garn
Goldwater
Gravel
Haskell
Hatfield,
  Mark O.
Johnston
McClure
McIntyre
Pearson
Sparkman
Young

So the bill (S. 991) was passed.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 991.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I would like to especially thank Senator PERCY and all the Senators and their staffs on the Governmental Affairs Committee. I want to especially thank Senator MURIEL HUMPHREY for her support. Senator Hubert Humphrey had been such an ardent supporter of this legislation for so many years. I want to also thank those on the Human Resources Committee, and the other Senators of this body and their outstanding staff who have worked so hard to make this legislation possible. Their dedication and hard work has brought this department into reality.

Franklyn Zweig (Senator Williams).

Jean Frohlicher (Senator Pell), Patria Forsythe (Senator Randolph).

Mr. ROBERT C. BYRD. Mr. President, with the passage of S. 991, the Department of Education Organization Act of 1978, the Senate has taken what can legitimately be regarded as a giant step forward toward the goal of upgrading and improving this country's educational system.

For too long now our schools and educational programs have been the poor stepchildren of a huge Department of Health, Education, and Welfare. With a budget only one-eighteenth that provided for health and welfare programs, it was almost inevitable that the Department's Education Division would "get lost in the shuffle" and that our educational programs would not receive the attention or be given the priority that they deserve. This is precisely what has happened.

At the same time, with a current budget of over $10.5 billion, the Education Division itself is easily large enough to constitute a separate department. This budget already exceeds that of the Departments of the Interior, Commerce, Justice, and State.

S. 991, which the Senate has passed today, will serve to correct this situation and further evidence this Nation's commitment to provide the people of this country with the best possible education. For the first time our Government will have a Cabinet-level Department of Education devoted solely to the needs of the educational system.

I congratulate the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) on their signal accomplishment. This was a bill that was supposed not to pass, that it would not pass, but due to the fine and splendid cooperation of everyone on both sides of the aisle the bill has now been enacted.

Mr. RIBICOFF. Mr. President, I want to pay special tribute to the majority and minority leaders. During the closing days of the session, I know how difficult it is to program legislation, and it is only because of the cooperation of the majority and minority leaders and their commitment to this bill that it was possible to bring this bill up and get the Senate to take action. My feeling is that because the Senate has acted so overwhelmingly, we can now expect positive action in the House, and then the signature of the President of the United States.

Mr. BAKER. Mr. President, I would like to join the majority leader in extending my congratulations and thanks to the distinguished manager of the bill, the able and distinguished Senator from Connecticut (Mr. RIBICOFF), and the distinguished manager of the bill on behalf of the minority, the senior Senator from Illinois (Mr. PERCY), my classmate. They have worked diligently and hard to bring us to this point.

I have had the privilege of conferring with both of them on the question of scheduling this matter. It appeared, as the majority leader indicated earlier, for a while that it could not be scheduled. But by their perseverence and persistent effort and cooperation, it has now been scheduled and disposed of in the Senate.

I want to pay special tribute to Marilyn Harris of the Governmental Affairs staff who worked so tirelessly and constructively throughout the entire conception up to final passage of this bill.

I also want to pay tribute to Richard Wegman and Jonathan Greenblatt who worked diligently to see this bill to completion tonight, and special tribute to Robert Hefferman, who devoted tireless energy and provided valuable assistance.

Mr. President, I ask unanimous consent that the names of the following staff members who worked so diligently on the bill be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

Lawrence Grisham, John Childers (Senator Percy).

Brian Conboy, Alan Bennett, Greg Fusco (Senator Javits).

Nancy Anderson, Link Hoewing (Senator Roth).

Jill Porter (Senator Mathias).

Mary Anne Simpson, Carl Flair (Senator Stevens).

Martina Pearson (Senator Heinz).

Chris Brewster and Harrison Fox (a former member of Senator Danforth's staff) (Senator Danforth).

Carnie Hayes (Senator Chiles).

Terry Jolly (Senator Muskie).

Cheryl Davis (Senator Nunn).

Reg Gilliam (Senator Glenn), and Evelyn Jacobs (a former member of Senator Glenn's staff).

Marcia McCord (Senator Eagleton).

Howard Orenstein and Dru Smith (Senator Sasser).

Charlotte Tsoucalas (Senator Jackson).

Tom Cator (Senator Humphrey).

Letitia Chambers (Senator Domenici).

The creation of the new Department of Education will insure that education receives appropriate emphasis at the Federal level and help to end the piecemeal approach to education-related problems that presently exists. It will also serve to continue and strengthen the Federal commitment to insuring access to equal education opportunities.

Mr. President, the passage of this legislation by the Senate today is directly attributable to the tremendous effort on its behalf by the distinguished chairman of the Governmental Affairs Committee, who has so skillfully managed the bill, Senator RIBICOFF. Senator RIBICOFF's longstanding interest in and concern with the entire field of education and ways in which it can be improved are well-known to every Member of this body. His expertise in this area is exceeded by no one and goes back well beyond his service as Secretary of Health, Education, and Welfare in the Cabinet of President Kennedy. Thanks to his hard work, diligence, and skill, what has been the goal of so many for so long will hopefully become a reality in the near future. He is deserving of a great debt of gratitude.

Credit must also be given, of course, to the distinguished Senator from Illinois (Mr. PERCY) for the role that he has played in bringing this bill to passage today. His skill and cooperation, which go beyond this particular legislation, have made a great contribution to what we have achieved today.

Mr. President, I wish to congratulate the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distin- I think this is a milestone piece of legislation, and I commend them for their efforts; and I thank the majority leader for his cooperation.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I want to include in my expressions of gratitude a special measure of thanks to the distinguished minority leader and those on the minority side for their cooperation in arranging for a time agreement on this matter, which enabled it to be considered and concluded.

95TH CONGRESS
2D SESSION

S. 991

AN ACT

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) the dispersion of education programs across a large number of Federal agencies has led to fragmented,

duplicative, and often inconsistent Federal policies relating to education;

(5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands;

(7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. (a) It is the purpose of this Act to establish a Department of Education in order to—

(1) insure that education receives the appropriate emphasis at the Federal level;

(2) enable the Federal Government to coordinate

education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

(5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(6) promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities;

(7) broaden approaches to meeting educational and

developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions;

(8) (A) provide assistance in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level;

(9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(10) assess the potential contribution of educational institutions, including institutions of higher education, to the improvement of education by creating mechanisms

by which such institutions may bring problems to the attention of appropriate departments and agencies and may make recommendations to foster the continuing vitality of such institutions.

(b) It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependent Children;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b) (1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c) (1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) two additional Assistant Secretaries;

(H) an Inspector General; and

(I) a General Counsel.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c) (1) (I) shall administer the functions of the Department under section 203 (11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c) (1) (I) shall administer the functions of the Department under section 203 (13) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsection (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education, including programs under part B of title V of the Economic Opportunity Act of 1964;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of programs pertaining to career education;

(5) administration of education grants and other programs for which the Department has responsibility under law;

(6) administration of programs relating to special education and rehabilitative services;

(7) administration of certain programs relating to the education of Indians, Alaskan Natives, and Aleuts;

(8) administration of schools for the overseas dependent children of personnel of the Department of Defense;

(9) enforcement of the civil rights laws relating to education;

(10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research

institutions, community-based organizations, and parents to improve their educational programs;

(12) public information;

(13) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(14) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202 (c). The Secretary shall delegate to the Director of the Office

for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301 (b) (2) (C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202 (c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202 (c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202 (c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301 (b) (1) (A) (other than administrative and support functions). The Secretary, through the Assistant Secretary for Occupational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies. The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202 (c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301 (b) (2) (A) (xi) (including the functions of the Bureau for the education and training of the handicapped) and 301 (b) (2) (H), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENT CHILDREN

SEC. 209. There is established in the Department an Office of Education for Overseas Dependent Children, to be administered by the Administrator appointed under section 202 (e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement appointed under section 202 (c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301 (b) (2) (A) (i), relating to the Fund for the Improvement of Postsecondary Education;

(B) under section 301 (b) (2) (F), relating to

Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) There is established in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202 (c).

(b) The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary under section 301 (b) (2) (D), and shall perform such functions with respect to all functions of the Secretary or of the Department, or of any officer or component thereof. The Inspector General of the Department shall be appointed and removed in the same manner, and shall have the same status, as the Inspector General of the Department of Health, Education, and Welfare.

(c) The Inspector General shall be subject to the provisions of subchapter III of chapter 73, title 5, United

States Code, notwithstanding any exemption from such provision which might otherwise apply.

OFFICE OF GENERAL COUNSEL

SEC. 212. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b) (1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high-quality, and effective education.

(2) In carrying out its function under subsection (a), the Council may review rules or regulations proposed by the Department concerning Federal education programs prior to the promulgation of such rules or regulations in order to determine the impact of such rules or regulations on State,

local, and tribal governments and public and nonpublic educational institutions.

(c) (1) The Council shall be composed of twenty-two members, to be appointed by the President—

(A) six members from among representatives of elected State, local, and tribal officials;

(B) six members from among representatives of the public, including parents, students, and public interest groups;

(C) five members from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and

(D) five members from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d) (1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c) (1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g) (1) In carrying out the provisions of subsection (b) (2), the Council shall establish a subcommittee to review proposed rules or regulations concerning Federal education programs in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. In reviewing such rules or regulations, the Council may provide parties to be affected by such rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit a report containing the results of its review of any such rules or regulations to the Secretary. Any such report shall be submitted by the Council within the time established for public comment on such rules or regulations. The Secretary shall place any report received from the Council on the record of the proceedings concerning such rules or regulations, and shall make such report public. Within thirty days of the receipt of such report, the Secretary shall submit a written public response on the record which addresses the recommendations made by the Council concerning any rule or regulation reviewed, and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations made by the Council in such rule or regulation.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All

members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. Such executive director shall be compensated at the rate provided for GS–17 of the General Schedule contained in section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c) (1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2) (A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior officials of that department or agency who are responsible for the formulation of policy in that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are—

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b) (5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c) (2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are hereby transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education; and

(5) the Office for Handicapped Individuals of the Department of Health, Education, and Welfare.

(b)(1) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(C) the Institute of Museum Services of the Department of Health, Education, and Welfare; and

(D) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under section 808 of the Elementary and Secondary Education Act of 1965;

(iii) under the Emergency School Aid Act;

(iv) under the Higher Education Act of 1965;

(v) under the Emergency Insured Student Loan Act of 1969;

(vi) under the Act of August 30, 1890 (26 Stat. 417);

(vii) under the Environmental Education Act;

(viii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(ix) under the International Education Act of 1966;

(x) under the National Defense Education Act of 1958;

(xi) under the Education of the Handicapped Act;

(xii) under the National Commission on Libraries and Information Science Act;

(xiii) under the Vocational Education Act of 1963; and

(xiv) under the Career Education Incentive Act.

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to the Office of Inspector General of the Department of Health, Education, and Welfare relating to the functions transferred by this section;

(E) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(F) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(G) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant

programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(H) (i) with respect to and being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively;

(ii) under section 405(a)(5) and section 405(c) of the Rehabilitation Act of 1973; and

(iii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107-107f).

(3) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(4) There are transferred to the Secretary all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(5) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a) (1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the office of Dependents Schools of the Department of Defense.

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of

overseas schools for dependent children of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education for overseas dependent children of personnel of the Department of Defense and for education of dependent children of personnel of the Department employed in such program.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(d) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed

Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3 (a) (1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3 (a) (1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 306. (a) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

(b) There are transferred to the Secretary all functions of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

Sec. 307. The transfer of a function from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) (1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108 (a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on August 1, 1978, in connection with functions transferred under this Act, sub-

ject to the limitation of the first sentence of section 5108 (a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108 (a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c) (1) In addition to the number of positions which may be placed at the GS–16, GS–17, and GS–18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Educational Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than fifteen transitional employees;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS-18 of the General Schedule contained in section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Department seventy-one additional positions in the competitive service at levels GS-16, GS-17, and GS-18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS-16, GS-17, or GS-18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS-16 positions, 25 percent shall be deemed GS-17 positions, and 12 percent shall be deemed GS-18 positions.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f)(1) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b) (1) for the fiscal year beginning October 1, 1978, and ending September 30, 1979, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b) (2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or

intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b) (1) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, he may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a) (2) within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b) (1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;

(B) Teacher Corps;

(C) Community College Unit;

(D) National Center for Education Statistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Institute of Museum Services; and

(K) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) The Secretary may not alter, consolidate, or discontinue the Office of Career Education, or reallocate the functions vested in such Office by the Career Education

Incentive Act, section 406 of the Education Amendments of 1974, or any other statute prior to October 1, 1983, unless (A) funds are not appropriated to carry out the provisions of such Act for any fiscal year preceding such date and (B) a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action. After October 1, 1983, such Office shall not be altered, consolidated or discontinued, or its functions reallocated unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action.

(d) On the effective date of this Act, the following entities shall lapse:

(1) The Education Division of the Department of

Health, Education, and Welfare, including the Office of Education;

(2) The Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) The Bureau for the education and training for the handicapped of the Department of Health, Education, and Welfare; and

(4) The Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any Officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions of the Secretary in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential

applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Depart-

ment at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a) (1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Department of Defense to the Department under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such periods as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or

will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel;

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas; and

(C) the performance of the American educational system, as measured by such indicators as the overall results of student testing on generally recognized standard examinations for entrance to secondary and postsecondary institutions;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b) (1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from such agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid,

neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(67) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) Assistant Secretaries of Education (6).

"(123) Director of the Office for Civil Rights of the Department of Education.

"(124) Inspector General of the Department of Education.

"(125) General Counsel of the Department of Education.".

(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

"(145) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The

Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 511. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 512. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other

personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

Passed the Senate September 28 (legislative day, September 26), 1978.

Attest:

Secretary.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, WEDNESDAY, JANUARY 24, 1979 *No. 6*

Senate

(Legislative day of Thursday, January 18, 1979)

By Mr. RIBICOFF (for himself, Mr. Magnuson, Mr. Pell, Mr. Nunn, Mr. Williams, Mr. Percy, Mr. Robert C. Byrd, Mr. Baker, Mr. Domenici, Mr. Jackson, Mr. Chiles, Mr. Glenn, Mr. Sasser, Mr. Roth, Mr. Mathias, Mr. Danforth, Mr. Heinz, Mr. Pryor, Mr. Levin, Mr. Durenberger, Mr. Cranston, Mr. Randolph, Mr. McGovern, Mr. Stafford, Mr. Boschwitz, Mr. Burdick, Mr. Church, Mr. Culver, Mr. DeConcini, Mr. Ford, Mr. Gravel, Mr. Hollings, Mr. Huddleston, Mr. Leahy, Mr. Matsunaga, Mr. Melcher, Mr. Metzenbaum, Mr. Nelson, Mr. Packwood, Mr. Riegle, Mr. Talmadge, Mr. Thurmond, Mr. Tsongas, and Mr. Weicker):

S. 210. A bill to establish a Department of Education; to the Committee on Governmental Affairs.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

● Mr. RIBICOFF. Mr. President, I am pleased to introduce along with Senators MAGNUSON, PELL, NUNN, WILLIAMS, PERCY, and 37 of my distinguished colleagues, a bill to establish a separate Cabinet Department of Education.

This bill is similar to the bill passed overwhelmingly by the Senate by a vote of 72 to 11 last year.

The bill has been considered for over 2 years by the Governmental Affairs Committee. Last year, the committee held 10 days of hearings on the bill and heard from over 100 witnesses. Last year the committee unanimously reported legislation to create a Department of Education. I am grateful for the support given by committee members for the bill, and particularly for the good cooperation and support of the committee's ranking minority member, Senator PERCY. I am looking forward to working with the committee again this year to establish the Department of Education.

It has wide support. Liberals, conservatives, Republicans, and Democrats recognize the importance of the need for the Department of Education. Nearly 100 organizations support the creation of a Department of Education. It is supported by a large number of organizations representing parents, teachers, students and the handicapped. In addition, this is the first time in history the American Society for Public Administration has supported creation of a new Cabinet Department. Mr. President, I

technologies, declining school enrollments, failing confidence in public education, high drop-out rates, increasing numbers of older citizens interested in lifelong careers, displaced homemakers, and a myriad of other factors present new challenges to our educational institutions.

How can we best meet our present and future education needs? The challenge we face today at the Federal level is how can we best manage our existing Federal Education programs? How can we best supplement and complement the efforts of States and local governments in their education efforts? Are we able to do this efficiently and effectively? A Department of Education will provide us the best opportunity to meet these challenges.

Let us look at the existing situation for education now in our Government. The largest single concentration of education programs is located in the education division of HEW. HEW's responsibilities are already too immense. Its budget is the third largest of all Government structures in the world—exceeded only by the total budgets of the U.S. Government and the Soviet Union. The HEW secretary is concerned with health insurance, hospital cost containment, welfare reform, social security, medicare, medical research, food and drug regulation and education. Last year the HEW Inspector General found over $7 billion of waste, inefficiency, fraud and abuse in that Department. This amount alone is larger than the budgets of five other existing departments.

is no opportunity for an education commissioner to grasp the serious challenges of the Office of Education. We have had 13 U.S. Commissioners of Education in the past 12 years. Our 14th Commissioner, Ernest Boyer, has announced he will resign his post later this year. During our hearings last year, I asked six former Commissioners about this shocking statistic. They told me it is impossible for the Commissioner to have any meaningful impact given the low-level place of education in the large HEW bureaucracy.

We might ask—why a new Department? Cannot our objectives be achieved by elevating education within HEW? Cannot we eliminate the dual conflict between the Commissioner of Education and the Assistant Secretary of Education and elevate one position to a sub-Cabinet level? This alternative has been considered by the administration and by the committee. It was found unacceptable. A Department of Defense model or sub-Cabinet structure would merely serve to increase the power of a super-Secretary. In HEW now the size of the Office of the Secretary is twice that of the Education Division. Policymaking and planning would still be in the Secretary's office. Elevating education into a sub-Cabinet would only increase the layers of bureaucracy that now exist above education. Thus, the present situation cannot be improved by a mere "elevation" of education within HEW—the Department is just too big. The missions are too diverse.

ask unanimous consent that the list of organizations suporting the department be included in the Record at the conclusion of my statement.

In his state of the Union address yesterday, the President reaffirmed the administration's strong support for the creation of a Department of Education. President Carter said the new department "will enable the Federal Government to be a more responsive and reliable partner with States, localities, and private institutions that have primary responsibility for education.". He speaks from experience. His first public office was chairman of a local school board.

The idea of a Cabinet Department of Education has been discussed for more than half a century. I first introduced a bill calling for such a cabinet department in the 89th Congress. Since that time my belief in the need for a separate education department has been many times reinforced. We need a Department of Education now more than ever.

American education is the foundation of our society. Today, more than 60 million people in the United States are directly involved in education. Total education spending in our country exceeds $180 billion.

Alvin Toffler, in discussing his book, "Learning for Tomorrow," stated:

> Young people in our schools today are going to live in a world radically different from the one we know—and a world that will be undergoing continual, and in all likelihood, accelerating change.

The need to provide equal access to education for all Americans, advancing

A separate department can actually reduce administrative costs and waste by streamlining the bureaucracy and consolidating scattered programs. The Senate bill folds into the Department 170 scattered Federal education programs. Placing these under one umbrella will reduce paperwork, and conflicting rules and regulations. The Senate bill also contains a provision mandating a stiff ceiling on the number of personnel employed by the new Department. Taking the "E" out of HEW is a serious attempt to break HEW down to manageable proportions, allowing the HEW secretary to devote more time, attention, and scrutiny to massive health and welfare programs. Good management cuts waste and costs. Creation of a Department of Education will represent better management of education programs, and better management of health and welfare programs.

HEW's Education Division's budget this year is expected to be approximately $11 billion. This amount alone is larger than the existing budgets of six other Cabinet departments, and yet it is buried layers deep within the massive $185 billion Department of Health, Education and Welfare. There is no accountability for education in the present Federal education structure. There is no one to insure that education programs are administered effectively, no one to speak up for education in the President's Cabinet, no one for States and localities, citizens, parents, teachers, and students to look to in the Federal Government for educational assistance.

I am amazed at the high turnover of Education Commissioners in HEW. There

Some argue for the sub-Cabinet model because they feel education needs to be coordinated with health and welfare. Rufus Miles, who served as Assistant Secretary for Administration in HEW for 12 years, responded to this argument before the committee. He stated—

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. . . . Actually the important coordination that needs to be undertaken is not so much between the Office of Education programs and the health and welfare programs within HEW, but between education and as it exists within the Education Division of HEW, and the education programs of the rest of the government. . . , This coordination within HEW is simply a figment of imagination.

Coordination can be improved by a separate department. For example, some education programs have linkages with agriculture, labor and energy. Education is fundamental to most Government programs. The elevation of the Federal Interagency Committee on Education to the secretarial level will provide an important mechanism for improved interagency coordnation of education-related programs. A Secretary of Education will be in a better position to coordinate health-related programs with the Secretary of Health and Human Services. A Secretary of Education could better coordinate labor-related programs with a Secretary of Labor, and so forth.

Most importantly, a Secretary of Education must begin the challenge of coordnating the myrad of eduation programs already existing within the education division. The American Society of Public Administration's resolution supporting the Department states:

> The addition of another Cabinet Department would not unduly stretch the President's span of major organization of control. On the other hand, coordination of education programs to minimise unnecessary administrative burdens and expense for educational institutions and to rationalize inconsistent educational policies would be facilitated if a Cabinet official were given this as a major assignment.

Does the creation of a separate Department of Education mean there will be Federal control of education? The answer is simply "no." From the beginning of the United States responsibility for public education has rested in the hands of State and local governments. It is part of our way of life. The diversity and individualism that comes with State and local control is what makes the American educational system one of the greatest the world has ever known. At least 38 percent of the budgets of State and local governments is spent for education. Education policymaking has resided, and will always reside, with State and local boards of education and citizens. This concern was discussed in depth during floor consideration of the bill last year.

The Governmental Affairs Committee carefully considered the question of whether a department means Federal interference in or dominance of State and local policymaking. States and their political subdivisions have the constitu-

> ation among Federal, state, and local education agencies in their appropriate roles. The establishment of a Department of Education would make clear the lines of Federal responsibility and authority in the educational effort. It would make it more possible for parents, educators, and other citizens . . . to make (education programs) more fully responsive to their needs.

The bill underlines the unique relationship of the Federal Government with States and localities in the area of education. It provides for an assistant Secretary to perform intergovernmental functions and also creates an Intergovernmental Advisory Council on Education. The Council would act as a continual check on the Department of Education for the impact of its programs on States and localities.

One area of Federal neglect has been in the area of citizen involvement. Underlying the strength of the American educational system has been the traditionally heavy involvement of citizens and parents in the State and local educational processes. Parent, citizen and student involvement will be an important function of the Department and will rebuild lost confidence in education. The Department will be designed to encourage parent, public and student participation in the development and implementation of departmental programs.

Structurally, the bill creating the new Department goes to great lengths to balance all educational interests and give adequate recognition to each. For example, the bill specifically provides for visibility for education assistance to States and localities in delivering effective education and training and adult community services.

Handicapped. An Office of Special Education and Rehabilitative Services will combine the functions of the Bureau of Education for the Handicapped and the Office of Human Development Service's Rehabilitation Services Administration into a comprehensive program of education and rehabilitative services for the handicapped.

Civil rights. An Office for Civil Rights—independent of the Department's programs headed by an executive level IV, who reports directly to the Secretary—will continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities. The bill elevates the status of the civil rights director by creating a level IV position—subject to Senate confirmation. The Director will have the authority to issue an independent report directly to the President, to Congress and the Secretary on the status of civil rights enforcement and issue recommendations for its improvement.

Mr. President, I believe the bill introduced today is greatly needed.

It will significantly improve the design and management of Federal education programs.

It directs the new department to involve parents, students, and the public more directly in developing and implementing education programs.

tional right to determine their own education needs and policies. The bill reinforces this principle. The bill states the intent of Congress in the establishment of the Department of Education is "to protect the rights of State, local and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, competency testing and selection of curricula and program content." It is our intent to also "strengthen the direction of such governments and institutions over their education programs and policies."

Amendments introduced last year by Senators ROTH and DANFORTH addressed this concern. These amendments are contained in the present bill and have been further refined. The bill recognizes the primary responsibility for education resides with the State, local and tribal governments, public and nonpublic education institutions, communities and families. The bill clarifies that in our Federal system of Government, the primary public responsibility for education is reserved, respectively, to the States and to their diverse instrumentalities.

The creation of a Department of Education is supported by State and local groups who say they fear more Federal intrusion will be caused by the existing fragmented, uncoordinated, unaccountable, and low-level bureaucracy. In testimony before the Senate committee, the National PTA said:

> Far from being an obstacle to the local control of education, the National PTA feels that the establishment of a Department of Education would produce successful cooper-

a principal elementary/secondary officer on an equal footing with the principal postsecondary officer. The Education Department will be concerned with all aspects of the broad process of education, from nutrition, to museums, elementary/secondary education, postsecondary education, occupational training, educational research, equal educational opportunity, training of the handicapped, and more. No one interest will dominate another.

Other features of the bill include:

Elementary and secondary education: An Office of Elementary and Secondary Education will administer approximately $6 billion for elementary and secondary education programs participated in by more than 48 million students. The Office of Elementary and Secondary Education will contain a new Office of Nonpublic Education.

Postsecondary education. The Assistant Secretary for Postsecondary Education will have program spending authority of approximately $3.6 billion. He or she will help coordinate programs designed to improve postsecondary educational opportunities.

Research and improvement. An Office of Educational Research and Improvement, containing the National Institute of Education, the Fund for the Improvement of Postsecondary Education, the National Center for Educational Statistics, and certain science education programs, will assist in the development of new knowledge about the educational process.

Occupational, adult, and community education. This office will provide needed

It recognizes the importance of equal education opportunity and the need to effectively enforce the respective laws of the land.

It stresses the importance of maintaining good intergovernmental relations, and closer cooperation with State, local and tribal governments, and public and nonpublic educational institutions.

It balances educational interests by placing them on an equal footing with each other.

It works toward strengthening interagency coordination of Federal education programs.

It gives proper recognition to and increased status for the Department's many and varied components.

I hope the Congress will act expeditiously this year on the legislation. The Committee on Governmental Affairs will hold hearings on the bill February 6, 7, and 8.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, I recently received a letter from former U.S. Commissioner of Education Terrel Bell, in which he succinctly states the need for the Department of Education. I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my statement.

I urge my colleagues to join with me this year to support a Cabinet Department of Education. We need a Department of Education.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

Sec. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access to education for all Americans;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities and families;

(4) in our Federal system, the primary responsibility for education is reserved respectively to the States and to their diverse instrumentalities;

(5) the dispersion of education programs

(4) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(6) (A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level; and

(7) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

Sec. 103. It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, competency testing, and selection of cur-

Education, and Welfare.
Sec. 302. Transfers of agencies and functions from the Department of Defense.
Sec. 303. Transfers of functions from the National Science Foundation.
Sec. 304. Transfers of programs from the Department of Justice.
Sec. 305. Transfers of functions from the Department of Housing and Urban Development.
Sec. 306. Transfer of the Advisory Council on Education Statistics.
Sec. 307. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
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Sec. 403. Annual authorization of personnel.

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Sec. 411. Authority of the Secretary.
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across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(7) Presidential and public consideration of issues relating to education is hindered by the present organizational position of education programs in the executive branch of the Government;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. It is the purpose of this Act to establish a Department of Education in order to—

(1) enable education to receive the appropriate emphasis at the Federal level;

(2) continue and strengthen the Federal commitment to ensuring access by every individual to equal educational opportunities;

(3) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

ricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) two additional Assistant Secretaries;

(H) a General Counsel; and

(I) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, ordinated administration of the Department

FUNCTIONS OF THE DEPARTMENT

Sec. 203. The *functions* of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(8) administration of schools for the overseas dependents of personnel of the Department of Defense;

(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(10) public information;

(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department

ondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

Sec. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND EDUCATION

Sec. 307. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Sec. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Serv-

and the Inspector General shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(7) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d) the President shall state the particular functions of the Department such individual will exercise upon taking office.

and the programs of the Department and to encourage improvement in education;

(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office of Civil Rights to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Services appointed under section 202 (c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(i) (including the functions of the Bureau for the education and training of the handicapped), 301 (b) (2) (G), and 301 (b) (3), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational programs at the State level.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator appointed under section 202 (e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202 (c). The Secretary shall delegate to the

Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301 (b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301 (b)(2)(E), relating to Federal grants for telecommunications demonstrations and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.

(b) The Inspector General Act of 1978 is amended—

(1) by inserting in section 2(1) "the Department of Education," immediately after "Commerce,";

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respective-

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members. The President shall appoint—

(A) eight members from among State governors, legislators, boards of education,

(g)(1) In carrying out the provisions of subsection (b)(2), the Council may provide parties to be affected by existing or proposed rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regulations. Within thirty days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including travel time, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or

ly; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and

(4) by inserting in section 11(2) "Education," immediately after "Commerce,".

(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

and chief education officials (both elementary and secondary and postsecondary);

(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;

(C) two members from among governing boards of public and nonpublic postsecondary institutions; and

(D) four members from among the public, including parents, teachers, students, and public interest groups.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance. /

(j) The Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS-17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policy making officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;

(6) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of the Department of Health, Education, and Welfare;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the Handicapped.

(b)(1) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(F) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Re-

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Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee, under subsection (c)(2) shall furnish such assistance, support, facilities and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sec. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(C) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(iii) under the Higher Education Act of 1965;

(iv) under the Emergency Insured Student Loan Act of 1969;

(v) under the Act of August 30, 1890 (26 Stat. 417);

(vi) under title II of the Elementary and Secondary Education Act of 1965;

(vii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(viii) under the International Education Act of 1966;

(ix) under the National Defense Education Act of 1958;

(x) under the Education of the Handicapped Act;

(xi) under the National Commission on Libraries and Information Science Act;

(xii) under the Vocational Education Act of 1963; and

(xiii) under the Career Education Incentive Act;

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered

habilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107-107f.).

(3) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

(4) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(5) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(6) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

Sec. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).

(2) There are transferred to the Secretary all functions of the Secretary of Defense

relating to the operation of overseas schools for dependents of personnel of the Department of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependents' Education Act of 1978).

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the programs transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS-16, GS-17, and GS-18, if the shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS-16, GS-17, or GS-18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS-16 positions, 25 percent shall be deemed GS-17 positions, and 12 percent shall be deemed GS-18 positions.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal emrelate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3 (a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE

Sec. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

Sec. 306. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(2) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108 (a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS-16, GS-17, and GS-18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Educational Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than 15 transitional employees;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Department seventy-one additional positions in the competitive service at levels GS-16, G-17, and GS-18. Such positions shall be for the exclusive use of the Department and ployees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

Sec. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

Sec. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b)(1) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations the Secretary of responsibility for the administration of such functions.

REORGANIZATION

Sec. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;

(B) Teacher Corps;

(C) Community College Unit;

(D) National Center for Education Statistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Office of Non-Public Education;

(K) Institute of Museum Services; and

(L) Administrative units for guidance and counseling programs, the veterans' cost of Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

Sec. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

Sec. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

Sec. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

Part B—General Provisions

AUTHORITY OF THE SECRETARY

Sec. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

Sec. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall not relieve instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Sec[illegible] containing a full and complete statemen[illegible]he action proposed to be taken pursuant to [illegible] subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare;

(4) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare; and

(5) the Office of Dependents' Education of the Department of Defense.

REPORTING RELATIONSHIPS

Sec. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health Education, and comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

Sec. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

Sec. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

Sec. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a) (1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of func-

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as

concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas.

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made: and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, stutions from the Secretary of Defense to the Secretary under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472 (e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial ontice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress

dents, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department: and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

STUDY OF THE ADMINISTRATION OF FEDERAL INDIAN EDUCATION PROGRAMS

SEC. 428. (a) The Secretary of Health and Human Services, the Secretary of the Interior, and the Director of the Office of Management and Budget shall jointly conduct a comprehensive study on the administration of Indian education programs by the Federal Government. In conducting the study, the Secretaries and the Director of the Office of Management and Budget shall consult with Indians, Alaskan Natives, Aleuts, affected Indian tribes, and Indian organizations.

(b) The study required by this section shall contain—

(1) an analysis of the problems in the Federal administration of Indian education programs;

(2) recommendations for administrative and programmatic improvements in such programs; and

(3) recommendations concerning the proper organizational structure for Indian education programs within the Federal Government, including an analysis concerning

the consolidation of Indian education programs and the transfer of such programs to the Department of Education.

(c) The study required by this section shall be transmitted to the Congress and the President not later than six months after the date of enactment of this Act.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 429. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 430. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnal employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this

agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 502.

EFFECT ON PERSONNEL

Sec. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the date before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

Sec. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceedings under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

Sec. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(70) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(128) Assistant Secretaries of Education (7).

"(129) Director of the Office for Civil Rights of the Department of Education.

"(130) General Counsel of the Department of Education.

"(131) Inspector General of the Department of Education.".

"(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(152) Administrator of Education for Overseas Dependents of the Department of Education.

"(153) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

(h)(1) Section 208 of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting "Education, the Secretary of Health and Human Services,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"Sec. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services charatcer under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include function transferred to the Secretary under this Act.

TRANSITION

Sec. 512. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505 (b) (2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

Sec. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on

American Theatre Association.

American Vocational Association.

Americans for Democratic Action.

Americans for Indian Opportunity.

Association of Childhood International.

Association for Supervision and Curriculum Development.

Children's Foundation.

Citizens Committee for a Cabinet Department of Education.

Coalition of American Public Employees.

Coalition of Independent College and University Students.

College Art Association of America.

College Band Directors National Association.

College Music Society.

Committee on Research in Dance.

Council for the Advancement and Support of Education.

Council for Educational Development and Research.

Council for Exceptional Children.

Council of Chief State School Officers.

Council of State Administrators of Vocational Rehabilitation (Executive Committee).

Education Commission of the States.

El Congreso.

Home Economics Education Association.

International Council of Fine Arts Deans.

International Reading Association.

Music Educators National Conference.

Music Teachers National Association.

National Art Education Association.

National Academy of Education.

National Association for the Deaf.

National Association of Administrators of State and Federal Education Programs.

National Association of College Wind and Percussion Instructors.

National Association of Elementary School Principals.

clude but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 511. (a) The Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services, upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

ORGANIZATIONS SUPPORTING DEPARTMENT OF EDUCATION

Alliance of Associations for the Advancement of Education.

American Alliance for Health, Physical Education, and Recreation.

American Association of Colleges of Teacher Education.

American Association of Community and Junior Colleges.

American Association of School Administrators.

American Association of University Professors.

American Association of Workers for the Blind.

American Choral Directors Association.

American Coalition of Citizens with Disabilities.

American Dance Guild.

American Dietetic Association.

American Educational Research Association.

American Federation of Government Employees (AFL–CIO).

American Federation of State, County, and Municipal Employees (AFL–CIO).

American Library Association.

American Personnel and Guidance Association.

American School Food Service Association.

American Society for Public Administration.

National Association of Mexican-American Women.

National Association of Secondary School Principals.

National Association of Schools of Art.

National Association of Schools of Music.

National Association of State Boards of Education.

National Association of State Directors of Migrant Education.

National Association of State Directors of Special Education.

National Audio-Visual Association.

National Committee for Citizen in Education.

National Congress of Parents and Teachers.

National Council of La Raza.

National Council of State Agencies for the Blind.

National Council of Teachers of Math.

National Dance Association.

National Education Association.

National Federation of the Blind.

National Governors Association.

National Guild of Community Schools of the Arts.

National Rehabilitation Association.

National School Boards Association.

National School Public Relations Association.

National Student Education Fund.

National University Extension Association.

National Urban League.

Overseas Education Association.

People United to Save Humanity (Operation PUSH).

Speech Communication Association.

State Higher Education Executive Officers Association.

Student National Education Association.

U.S. Catholic Conference Secretariat for the Spanish Speaking

U.S. Student Association.

Young Audiences, Inc.

SALT LAKE CITY, UTAH
January 5, 1979.

Hon. ABE RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: In response to your letter, I am pleased to express my continued support for legislation that you have been sponsoring to establish a separate U.S. Department of Education. I want to respond specifically to the allegations that have been made in previous testimony that the creation of a separate Department of Education will lead to more Federal control and dominance. Then, I would also like to respond to the argument that a Department of Education will merely add to an increased bureaucracy without improving management effectiveness and coordination in education.

In my view, a separate Department of Education will be more responsive to the needs of schools and colleges in the United States. It is difficult for the education community to have access to the Secretary of HEW. The Department is so large and the problems are so complex that the Secretary simply does not have time to meet with education leaders, hear their problems, and be responsive to them. Moreover, a separate Department of Education would be able to devote more time on the Cabinet level to top White House staff members, to the Office of Management and Budget, and to the President. This simply is not the case now because of the enormous size and complexity of HEW. With three out of ten Americans in the United States involved in education on a fulltime basis, either as students or as employees, a separate Department of Education is justified and necessary. Such a department can be more responsive and more sensitively aware of the problems and concerns of American education. This should lead to more enlightened legislation and administration and proper deliberation and hearing before decision making takes place. Thus, the bureaucratic tangle that exists in HEW would be greatly simplified if education became a separate department. The health and welfare programs would benefit as well as would the education programs through the creation of a separate U.S. Department of Education.

It is natural for leaders both inside and outside of government to want to have some of their major problems heard by the person who sits at the head of the organization. This is simply another good argument for a separate department. There is no time for the Secretary of HEW to fill many of these needs, because of the pressures on his time.

I hope that you will be successful in getting your legislation passed. American education will benefit if you are successful, and we all owe you a debt of gratitude for the leadership that you are displaying in this matter.

Sincerely,

T. H. BELL,
Commissioner of Higher Education. ●

● Mr. WILLIAMS. Mr. President, I am pleased to support as an original cosponsor this legislation to create a Cabinet Department of Education. I supported this measure in the 95th Congress and I do so at the outset of the 96th Congress with the conviction that this legislation is more important than ever to our national interest.

The bill introduced today is essentially the same measure which passed the Senate by a wide margin in the last days of the 95th Congress. The principles underpinning it have been tested repeatedly in hearings, in debate before the Committee, and on the Senate floor, in the process of producing the Department of Education Organization Act.

Since we last introduced this measure in early 1976, great strides have been made toward the actual establishment of this much-needed department. When the Governmental Affairs Committee reported this bill for full Senate consideration last August, S. 991 had over 50 bipartisan cosponsors, had been the subject of 10 days of hearings with more than 100 witnesses, and had been extensively reviewed and thoroughly discussed by the committee staff, the administration, and interested citizens from throughout the Nation. And, it received a substantial vote of confidence from the Senate when it passed on September 28, 1978, by a vote of 72 yeas to 11 nays. Unfortunately, it was impossible to bring this important measure to the floor of the House of Representatives for its consideration during the last few days of the session, and S. 991 did not receive full congressional approval prior to adjournment.

I do believe, however, that we still have the momentum to get expeditious approval of the Department of Education Organization Act early in this Congress, because I think that most of my colleagues still share my view that our Government has no national educational policy and no coordinated system of providing educational services to the State and local educational agencies, our colleges and universities, and most importantly, our Nation's youth. It is trative regulation. It should lead to more concern for the problems of education and for the realities of local and state control. With a Cabinet-level official in charge of education and responsible for the administration of Federal policy, there should be much more awareness of the traditions of local autonomy and grass roots control and governance of education. And all of this should lead to less control and less Federal dominance than we have at the present time.

More effective management and coordination of education should result from a separate Department of Education. Anyone who has worked in the HEW bureaucracy knows of the cumbersome decision-making structure that exists there. I don't express this as a criticism but merely express it as a normal result of the unreasonable size and complexity of that department. It is simply too large and unwieldy. During the time that I served in Washington as Deputy Commissioner and as U.S. Commissioner of Education, I worked under Secretaries Finch, Richardson, Weinburger, and Matthews. All of these men were simply overpowered and overwhelmed with the enormity of the task of trying to manage HEW. Decisions that the Secretary must make are so numerous that they have to be delegated to subordinates. It was extremely difficult to get time on the Secretary's calendar to discuss serious problems in the U.S. Office of Education. Indeed, I found it even difficult to get in to see the Under Secretary at times. So far as education is concerned, these management and coordination difficulties would be greatly simplified if we had a separate Department of Education. I constantly received complaints from school and college leaders and from their organizations and association groups that they simply could not get an audience with the Secretary. Despite the dedication of the conscientious individuals who served as Secretaries of HEW, the task is so enormous and the span of control is so vast that it is impossible to have effective mittee on Governmental Affairs, in consultative assistance from the Committee on Human Resources, and before the Senate. The concept of a Department of Education is well founded and the need for a department to concentrate on the Federal role in this essential policy area escalated as school enrollments decline, as educational technology goes unused, and as local ability to finance education is questioned by tax-saving and tax-limitation measures across the Nation.

The measure which I join in introducing today maintains a proper perspective of a Federal role in education—to assist effectively the States and localities to carry out primary responsibility for the formulation and delivery of educational services. By combining from diverse and frequently competing locations in the Federal Government the many programs affecting our young people, a new Department of Education would facilitate Federal administration of education policies and programs. Such a department is the only way that we can reduce the paperwork burden and excessive Federal regulation and at the same time provide those programs which local government is unable to afford.

The passage of this matter is a high priority for the Congress and for the administration. It is my hope that my colleagues in the Senate will consider this measure favorably and that the leadership of the Senate will clear the way for its earliest possible consideration.●

● Mr. NUNN. Mr. President, it is with great pleasure that I again join Senators RIBICOFF, MAGNUSON, and PELL in intro- our hope that a separate Department of Education will help alleviate this problem and bring some guidance to our fragmented educational programs.

Without going into the actual details of the bill, I would like to share several reasons why I feel a separate department will actually improve education in our Nation today.

I believe that the Federal involvement in education, with its primary goal of equalizing opportunities for all citizens, is a commendable one. These programs have made a great difference in the education of many socially, physically, and economically handicapped children.

But the price for these benefits has often been confusion, fragmentation, duplication, delay, and general frustration with the paperwork and painstaking slowness of Federal bureaucratic processes.

Federal regulations require days, even weeks, of administrative time, often at great expense to school systems. But the mandates do not stop at the administrative levels. Teachers also must spend hours of their time in complying with Federal requirements and completing nebulous and often inane forms when time and effort could be better expended in fulfilling the educational needs of the students.

And all of this time and effort is expended at a price. Only 8 percent of the cost of public education is asumed by the Federal Government.

There is a reason for the burdensome paperwork, for the regulations and for the guidelines. It may not be a good reason, but it is a simple one. The paperwork, the regulations and the guidelines fill the vacuum created by the unconscionable absence of a Federal education policy.

This is not the fault of the executive branch, alone. In a very real sense, Congress must share the blame, because Capitol Hill is responsible for the extraordinary fragmentation in education programs that is now so severe that only a reorganization of Government can respond to the problem.

For example, in addition to the Education Division of the Department of Health, Education, and Welfare, 37 other departments and agencies run 130 education programs of their own. We have also played musical chairs with our Commissioners of Education—there have been 13 individuals holding this position in th[illegible] years. With continuity of lea[illegible]p like that, there is little wonder [illegible] bureaucrats write regulations, g[illegible]lines, and prepare new forms to their hearts content.

And, although the Secretary of Health, Education, and Welfare is ultimately responsible, it is difficult for even the most competent and concerned HEW Secretary to be a real spokesman for education when the massive health and welfare needs, with their concurrent extraordinary expenditures, demand all his time and energies.

But not only is the Commissioner of Education's responsibilities fragmented, his voice and opinion have little authority and receive little attention. In hearings on the Department of Education which I chaired in the Governmental and establishes direct lines of authority can go a long way toward the improvement of education. But even more importantly, Congress and the American people need a visible, responsible, high-level Federal official who can be held accountable for the successes of failures of educational programs and policies at the Federal level. Education also needs a strong advocate in the executive branch to delineate its priorities and to assist in solving its problems. A Department of Education can go a long way toward meeting these needs.

But I feel I must take a moment to emphasis that the effective management which will accompany a Department of Education should not mean more control. In the report on S. 991 in the 95th Congress, the Senate Committee on Governmental Affairs, with my strong concurrence, stated emphatically that the responsibility for education policy and curriculum will remain at the State, local, and private levels. However, a Secretary of Education can mean improved accountability, coordination, and advocacy, all of which are important if the Federal Government is going to make its involvement in education meaningful.

Education is an investment of no small measure in our Nation. In 1977, the American people spent $140 billion on education—this is 8 percent of our gross national porduct and more than we spend on national defense. Today, nearly 3 out of every 10 Americans—63.7 million citizens—are directly in- sponsor. He has introduced legislation to create a separate Department of Education in every Congress since the 89th, and he should receive credit for his skillful and successful efforts in guiding the bill through the Senate last year. Credit must also be given, of course, to the distinguished Senator from Illinois, Mr. PERCY, for the role that he played in bringing this bill to passage last year.

The legislation Mr. RIBICOFF is introducing today, S. 210, to create a Cabinet-level Department of Education reflects his longstanding interest in and concern with the whole range of education issues and problems. This bill is the product of many years of hard work—hundreds of hours spent in committee addressing the issues, improving the bill's language and refining its findings and purposes. It is my sincere hope that this year, his efforts and those of so many others will be realized in the creation of a separate Department of Education.

For too long education programs have been smothered in the massive bureaucracy of health and welfare programs administered by the Department of Health, Education, and Welfare. They are scattered throughout at least 40 Federal departments, agencies, and bureaus. Over the years, they have received less and less of the attention and priority they deserve.

At the same time, the budget for the Education Division at HEW already exceeds that of the Departments of the Interior, Commerce, Justice, and State. It is easily large enough to constitute and

Affairs Committee, former Commissioner of Education Terrel Bell, testified that—

> The Commissioner is an executive level 6 in the government structure, and in HEW that is one of the lowest forms of human life. . .

He also stated that during his 2 years service as Commissioner of Education, he had the opportunity to meet directly with President Nixon on only one occasion and that was when he was appointed.

This is just one sad example of the frustration of being U.S. Commissioner of Education, and is perhaps one reason why this job changes hands so much. The Commissioner of Education has almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. He is buried within the HEW bureaucracy with very little access to the Secretary of Health, Education, ad Welfare, much less anyone higher.

All the aforementioned problems describe a generally deplorable situation, yet, such is the state of education at the Federal level. It is incumbent on us now to take steps to remedy this problem.

I believe that the first step we must take is to establish a Cabinet-level Department of Education. I am not going to pretend that I believe that a separate Department of Education will solve all our educational problems or guarantee that the quality of these endeavors will be improved. But I do strongly believe that an identifiable, Cabinet-level department which consolidates existing programs, streamlines administration volved in education. And, education is by far the largest expenditure of State and local governments, accounting for more than one-third of their budgets.

The bill which we are introducing today reflects the goals and concerns of citizens throughout our Nation who are interested in improving educational opportunities and wisely spending our educational dollars. It also encompasses the long months of dedicated and diligent work during the 95th Congress which I believe will effectively reorganize our Federal educational effort, reduce fragmentation, give priority attention to these urgent needs and provide more responsive educational services to the youth of our Nation.

Mr. President, I know the Committee on Governmental Affairs intends to move expeditiously on this measure. I urge the Senate to act accordingly so that a Department of Education can become a reality in 1979.●

● Mr. ROBERT C. BYRD. Mr. President, last year the Senate passed legislation to create a Federal Department of Education. However, in the closing days of the 95th Congress, the House was unable to complete its action on the bill. I hope that this year the bill will become law, and I am pleased to add my name to the list of cosponsors.

Senator RIBICOFF, chairman of the Committee on Governmental Affairs, which has jurisdiction over creation of Federal executive departments and agencies, has introduced this legislation today. And I cannot think of anyone more qualified than a former Secretary of Health, Education, and Welfare to be its principal justify a separate department.

Creation of a new Department of Education will result in increased efficiency in the management and coordination of education programs administered by the Federal Government. It will result in greater responsiveness at the Federal level to the education needs of this country by consolidating education-related programs under one Federal department.

I know that in West Virginia, school boards have run into problems when dealing with the Education Division at HEW. I can cite numerous examples of delay, time-consuming paperwork, duplication, and confusion which the local school boards have encountered. In fact, one of the main reasons I feel so strongly about this legislation is that I believe that creation of a Cabinet-level Department of Education will result in a substantial reduction in redtape, paperwork, and delays. This department should be much more responsive to local needs by bringing the Federal Government into closer contact with State and local education agencies. One Federal Department to administer this Nation's education programs should provide better leadership and management. Education will receive the increased status and visibility it deserves. And our commitment to providing this country with the best possible education opportunities will be strengthened.●

● Mr. SASSER. Mr. President, I am proud to be a cosponsor of the legislation to create a separate Department of Education. As an original cosponsor of the similar bill which passed the Senate during the 95th Congress, I am pleased to sign my name to the measure which is introduced today.

One of the hallmarks of our 96th Congress will be the emphasis placed on our responsibilities for oversight of the Federal agencies and their programs. In the field of education, our ability to carry out this mission will be considerably enhanced by the creation of a single department to administer programs for education which are now scattered among several Federal agencies.

Current Federal expenditures for education can be more effectively monitored by Congress if they are administered by a single department. We can also hold a Secretary for Education who sits in the President's Cabinet fully accountable for efficiently running the agency.

Roughly $9.5 billion was spent by the Education Division of HEW in 1978. This amount is larger than the budgets for the Departments of Commerce, Interior, Justice, and State. Yet the agency responsible for administering the funds for education is buried within the bureaucracy of a large department which must run other important programs.

Congress is committed to meeting its mandate to see that existing Federal programs are administered wisely and without undue restrictions. The creation of a Department of Education to more effectively and efficiently administer Federal programs for education can help Congress to meet its oversight responsibilities. It is my hope that the Department of Education will become a reality in 1979.

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overseas military dependents run by the Defense Department, and some science education programs of the National Science Foundation.

Education officials have done their best to meet the educational needs of many Americans. However, without a Cabinet secretary reporting directly to the President on our critical educational needs and the status of education programs, there will never be a coordinated national policy to meet our basic needs. With the demands made on one Cabinet secretary who has responsibility for three major agencies, Health, Education, and Welfare, it is no wonder the focus on education has weakened. Our Nation cannot afford this. There are many problems which require the attention of a Secretary whose sole responsibility is education and who has the authority to make major policies and see to it that these policies are implemented. There is much evidence that we need strong direction: Approximately one-fourth of our children in grade school will not earn a high school diploma; an estimated 30 million teenagers and adults in this country are functionally illiterate; hundreds and perhaps thousands of young children are exposed to cancer-causing asbestos materials in their classrooms, and many students refuse to repay the student loan they borrowed from the Federal Government—resulting in the loss of millions of taxpayer dollars. These are just a few of our many problems. Furthermore, the complicated regulations, and endless paperwork required are the result of education programs being scattered through-

Mr. President, I understand that the Congressional Budget Office is preparing its cost estimate of the Department of Education bill. Until we have that estimate, we will not know if the department as envisioned in this bill will cost the taxpayers any additional money.

I want to state my strong feeling that my support for this bill is based on its potential to give higher priority and better management to Federal education programs. I do not support a new bureaucracy which would require additional funding for administrative and bureaucratic costs at the expense of our Nation's educational needs and at the expense of our commitment to fiscal restraint.

I will pursue these potential costs and benefits when the Committee on Governmental Affairs begins hearings on this legislation next week.●

● Mr. McGOVERN. Mr. President, I am pleased to be an original cosponsor of the Department of Education bill. It is unfortunate that this bill must again make its way through the legislative process, as a version of this bill should have been passed in the 95th session of Congress. Instead, the Department of Education bill was once again pushed aside—perhaps the most blatant evidence of all that education in its present structure exerts little influence.

This bill would transfer to the new Education Department the Education Division of Health, Education, and Welfare, vocational rehabilitation programs of HEW, parts of the HEW Office of Civil Rights relating to education, schools for

out 40 different agencies. Placing these programs under one roof would save the policymaker time, and the taxpayer money.

It should be stated that it is not the purpose of a separate Department of Education to supersede State and local control of education. However, coordination between State and local educational agencies and the Federal Government is needed if Federal education programs are to be effective. The required redtape and regulations as well as the lack of organization and communication have alienated the State and local agencies and have resulted in inadequate education programs for children.

All of these problems will not be solved simply by moving various education divisions to one building. Sincere efforts must be made on the part of the President of the United States, the Secretary of Education, Federal, State, and local officials, and concerned citizens, to see that better educational policies are established, implemented, and consistently evaluated. By creating a Department of Education, this much-needed framework is set—the rest is up to us.●

96TH CONGRESS
1ST SESSION

S. 210

To establish a Department of Education.

IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 15), 1979

Mr. RIBICOFF (for himself and Mr. MAGNUSON, Mr. PELL, Mr. NUNN, Mr. WILLIAMS, Mr. PERCY, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. DOMENICI, Mr. JACKSON, Mr. CHILES, Mr. GLENN, Mr. SASSER, Mr. ROTH, Mr. MATHIAS, Mr. DANFORTH, Mr. HEINZ, Mr. PRYOR, Mr. LEVIN, Mr. DURENBERGER, Mr. CRANSTON, Mr. RANDOLPH, Mr. MCGOVERN, Mr. STAFFORD, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CHURCH, Mr. CULVER, Mr. DECONCINI, Mr. FORD, Mr. GRAVEL, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. LEAHY, Mr. MATSUNAGA, Mr. MELCHER, Mr. METZENBAUM, Mr. NELSON, Mr. PACKWOOD, Mr. RIEGLE, Mr. TALMADGE, Mr. THURMOND, Mr. TSONGAS, and Mr. WEICKER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To establish a Department of Education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1979".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access to education for all Americans;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) in our Federal system, the primary responsibility for education is reserved respectively to the States and to their diverse instrumentalities;

(5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(7) Presidential and public consideration of issues relating to education is hindered by the present organizational position of education programs in the executive branch of the Government;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes

more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. It is the purpose of this Act to establish a Department of Education in order to—

(1) enable education to receive the appropriate emphasis at the Federal level;

(2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(3) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, determine their own methods for raising revenues, and choose program content with respect to their educational programs;

(4) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(6)(A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level; and

(7) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and con-

straints, including unnecessary paperwork, on the recipients of Federal funds.

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

SEC. 103. It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, competency testing, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) two additional Assistant Secretaries;

(H) a General Counsel; and

(I) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(7) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(8) administration of schools for the overseas dependents of personnel of the Department of Defense;

(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(10) public information;

(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than

administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(x) (including the functions of the Bureau for the education and training of the handicapped),

301(b)(2)(G), and 301(b)(3), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation programs at the State level.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301(b)(2)(E), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.

(b) The Inspector General Act of 1978 is amended—

(1) by inserting in section 2(1) "the Department of Education," immediately after "Commerc[illegible]

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and

(4) by inserting in section 11(2) "Education," immediately after "Commerce,".

(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members. The President shall appoint—

(A) eight members from among State governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary);

(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;

(C) two members from among governing boards of public and nonpublic postsecondary institutions; and

(D) four members from among the public, including parents, teachers, students, and public interest groups.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g)(1) In carrying out the provisions of subsection (b)(2), the Council may provide parties to be affected by existing or proposed rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regulations. Within thirty days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS-17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their worklife.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policymaking officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities and staff to the

Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;

(6) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of the Department of Health, Education, and Welfare;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the handicapped.

(b)(1) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(C) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(iii) under the Higher Education Act of 1965;

(iv) under the Emergency Insured Student Loan Act of 1969;

(v) under the Act of August 30, 1890 (26 Stat. 417);

(vi) under title II of the Elementary and Secondary Education Act of 1965;

(vii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(viii) under the International Education Act of 1966;

(ix) under the National Defense Education Act of 1958;

(x) under the Education of the Handicapped Act;

(xi) under the National Commission on Libraries and Information Science Act;

(xii) under the Vocational Education Act of 1963; and

(xiii) under the Career Education Incentive Act;

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational

orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(F) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(3) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

(4) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(5) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(6) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependents of personnel of the Department of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependents' Education Act of 1978).

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management

and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 306. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS-16, GS-17, and GS-18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and

5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS-16, GS-17, and GS-18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Educational Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than 15 transitional employees;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Department seventy-one additional positions in the competitive service at levels

GS-16, GS-17, and GS-18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS-16, GS-17, or GS-18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS-16 positions, 25 percent shall be deemed GS-17 positions, and 12 percent shall be deemed GS-18 positions.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(b)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)): *Provided*, That such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of

section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after

the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b)(1) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall not relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function

vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;

(B) Teacher Corps;

(C) Community College Unit;

(D) National Center for Education Statistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Office of Non-Public Education;

(K) Institute of Museum Services; and

(L) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare;

(4) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare; and

(5) the Office of Dependents' Education of the Department of Defense.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field

offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on

Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

STUDY OF THE ADMINISTRATION OF FEDERAL INDIAN EDUCATION PROGRAMS

SEC. 428. (a) The Secretary of Health and Human Services, the Secretary of the Interior, and the Director of the Office of Management and Budget shall jointly conduct a comprehensive study on the administration of Indian education programs by the Federal Government. In conducting the study, the Secretaries and the Director of the Office of Management and Budget shall consult with Indians, Alaskan Natives, Aleuts, affected Indian tribes, and Indian organizations.

(b) The study required by this section shall contain—

(1) an analysis of the problems in the Federal administration of Indian education programs;

(2) recommendations for administrative and programmatic improvements in such programs; and

(3) recommendations concerning the proper organizational structure for Indian education programs within the Federal Government, including an analysis concerning the consolidation of Indian education programs and the transfer of such programs to the Department of Education.

(c) The study required by this section shall be transmitted to the Congress and the President not later than six months after the date of enactment of this Act.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 429. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 430. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is

appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then

such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

Sec. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

Sec. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(70) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(128) Assistant Secretaries of Education (7).

"(129) Director of the Office for Civil Rights of the Department of Education.

"(130) General Counsel of the Department of Education.

"(131) Inspector General of the Department of Education.".

"(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(152) Administrator of Education for Overseas Dependents of the Department of Education.

"(153) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

(h)(1) Section 203 of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting "Education, the Secretary of Health and Human Services,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 511. (a) The Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services, upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 512. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice

and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, THURSDAY, MARCH 1, 1979 *No. 24*

Senate

(Legislative day of Thursday, February 22, 1979)

S 1946

By Mr. RIBICOFF (by request):

S. 510. A bill to establish a Department of Education, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF EDUCATION ORGANIZATION ACT

● Mr. RIBICOFF. Mr. President, at the request of the administration, I am introducing legislation to establish a Department of Education.

I ask unanimous consent that the text of the bill and the accompanying message from the President of the United States be printed in the RECORD.

There being no objection, the bill and message were ordered to be printed in the RECORD, as follows:

96th CONGRESS
1st Session
S. 510

To establish a Department of Education, and for other purposes

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IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 22), 1979

Mr. RIBICOFF (by request) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act".

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TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

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DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, or activity.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that:

(a) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(b) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(c) the primary responsibility for education resides with States, localities, and private institutions;

(d) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(e) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(f) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions in carrying out their educational responsibilities;

(g) there is a need for improved coordination of Federal education and related programs; and

(h) there is no single, full-time, Federal education official directly accountable to the President, the Congress and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(a) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(b) to support more effectively States, localities, and public and private institutions in carrying out their responsibilities for education;

(c) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(d) to improve the management and efficiency of Federal education activities;

(e) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(f) to encourage the involvement of the public, parents, and students in Federal education programs; and

(g) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional material by any educational institution or school system, except to the extent authorized by law.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

Sec. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level I of the Executive Schedule under section 5312 of title 5 of the United States Code. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5 of the United States Code. The Under Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices. The Under Secretary shall also be responsible for intergovernmental relations in the Department.

PRINCIPAL OFFICERS

Sec. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. An Assistant Secretary shall head each of the Offices created by sections 203, 204, 205, and 206 of this Act.

(b) In addition, there shall be in the Department six officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

(c) The officers created by this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions; and

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs.

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer created by either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights, who shall be one of the Assistant Secretaries created by section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to such Assistant Secretary all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action or as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within its jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates; and

(3) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rates prescribed for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 206. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions and programs of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 207. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers created by section 202 of this Act.

GENERAL COUNSEL

SEC. 208. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

OFFICE OF INSPECTOR GENERAL

SEC. 209. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

EXECUTIVE LEVEL POSITIONS

SEC. 210. The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by fourteen.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 211. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years: *Provided*, That no member serving pursuant to subparagraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such subparagraph: *Provided further*, That the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an Executive Director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 212. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this Act as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate with regard to the matters under consideration.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each Federal agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions, programs, and offices vested in the Assistant Secretary for Education (or in the Office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions, programs, and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare:

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Emergency School Aid Act;

(D) under the Higher Education Act of 1965;

(E) under the Education Amendments of 1978;

(F) under the Act of August 30, 1890 (7 U.S.C. 321-328);

(G) under the Environmental Education Act;

(H) under the National Defense Education Act of 1958;

(I) under the Education of the Handicapped Act;

(J) under part B of title V of the Economic Opportunity Act of 1965;

(K) under subparts I and II of part C of title VII and part B of title VIII of the Public Health Service Act;

(L) under the National Commission on Libraries and Information Science Act;

(M) under the Vocational Education Act of 1963;

(N) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(O) under the Model Secondary School for the Deaf Act;

(P) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(Q) under section 2030(k) of the Federal Property and Administrative Services Act of 1949; and

(R) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4) any advisory committee and authority for any advisory committee established by statute in or under

the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education: *Provided*, That the Secretary may terminate or combine one or more of such advisory committees;

(5) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in such Institute;

(6) the Advisory Council on Education Statistics and all functions vested in such Council; and

(7) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act of 1973.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

Sec. 303. (a) Notwithtanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 207 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall

also consult with representatives of sponsors of students enrolled in overseas dependents' schools and of professional employee organizations and administrators of such schools.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

Sec. 304. (a) There are hereby transferred to and vested in the Secretary all programs relating to science education of the National Science Foundation or its Director established prior to the effective date of this Act pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except such programs, as determined by the Director of the Office of Management and Budget (after consultation with the Director of the Office of Science and Technology Policy), that relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating information to practitioners of science and technology and to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission-oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 to initiate and conduct programs not established prior to the effective date of this Act.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function, program, or office from an officer or agency to the Secretary or to the Department includes any aspect of such function, program, or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) Notwithstanding the second sentence of section 5108(a) of title 5 of the United States Code, the Secretary may place at grade levels GS-16, GS-17, and GS-18 a number of positions in such grades equal to the number assigned and employed on the day preceding the effective date of this Act in connection with functions transferred under this Act.

(2) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 206 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.

(3) Appointments under this subsection may be made without regard to the provisions of sections 3104 and 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with a transfer of functions, offices, or programs under this Act and, immediately before the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) Except as provided in subsection (c), the authority of the Secretary under this subsection to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5 of the United States Code shall cease with respect to any position when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position

as he or she occupied on the day before the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to one hundred and twelve scientific, technical, or professional employees of the Office created by section 206 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS-16 of the General Schedule of section 5332 of title 5 of the United States Code.

(d) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position.

(e) Notwithstanding the transfer of functions affected by section 303 of this Act (and the consequent transfer of personnel), personnel performing such functions shall have commissary and post exchange privileges in facilities of the Armed Forces.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of such title for persons in Government service employed intermittently.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out the functions or conducting offices or programs transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function, office, or program to the official or agency from which such function, office, or program is transferred.

DELEGATION

SEC. 422. Except as otherwise expressly provided in this Act, the Secretary may delegate any function, office, or program vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function, office, or program within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions, offices, or programs vested by this Act in such organizational unit or component.

RULES

SEC. 424. The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions, offices, and programs vested in the Secretary or the Department in accordance with chapter 5 of title 5 of the United States Code.

CONTRACTS

SEC. 425. Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions and programs vested in the Secretary or the Department.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions and programs vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary, and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audio-visual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or a part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State, or of any foreign government, in carrying out any function or program vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals, of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or a part of the cost of such work or services or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act and used under the law governing such fund.

(d) All interests in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(a) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(b) licenses under copyrights, patents, and applications for patents; and

(c) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail,

telephone, and other communications services; office space; central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. (a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, State and local governments, private institutions, other organizations, and individuals. The Secretary shall hold such public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5 of the United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function or program transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any program or office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

SEC. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions or programs of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions or programs administered by the Secretary or the Department: *Provided*, That such packaging or consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions or programs.

TITLE V—TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions, programs, offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions, offices or programs transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions or programs pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive

compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315-5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The director of any office in the Department the director of which was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the transfer of functions, programs, offices, or portions thereof that relate to or are utilized by an officer, agency, commission, or other body, or component thereof, transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used,

arising from, available to, or to be made available in connection with such functions, programs, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been lawfully issued, made, granted, or allowed to become effective in the performance of functions or programs which are transferred under this Act to the Department after the date of enactment of this Act, and

(2) are in effect at the time this Act takes effect,

shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions, offices, or programs of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions, offices, or programs so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions or programs of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions or programs of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function, office, or program of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function, office, or program, shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function or program transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency, or any officer or office the functions or programs of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5108(a) of title 5 of the United States Code is amended by striking out "10,777" and inserting in lieu thereof "10,838".

(d) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(e) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(f) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof:

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(g) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (6).".

(h) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) The Comprehensive Employment and Training Act of 1973 is amended as follows:

(1) Section 111(a) shall read:

"SEC. 111. (a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.".

(2) Section 127(b) is amended by striking out "and the Secretary of Health, Education, and Welfare" in the first line and inserting in lieu thereof ", the Secretary of Education and the Secretary of Health and Human Services".

(3) Section 311(g) is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) Section 314 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) Section 438(a)(2) is amended by striking out the words "Health, Education, and Welfare," and inserting in lieu thereof the words "Education, Secretary of Health and Human Services,";

(6) Section 502(a) is amended by—

(A) striking out the number "15" and inserting in lieu thereof "16"; and

(B) striking out the words ", Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof the words "Education, Secretary of Health and Human Services,".

(j) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after the word "Secretary" in the first sentence, the words ", the Secretary of Health and Human Services,"; and

(2) by striking out the words "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof the words ", Department of Health and Human Services,".

(k) Section 1411 of the Defense Dependents' Education Act of 1978 is amended:

(1) by inserting in subsection (a)(1) thereof after the words "Assistant Secretary")" the words "and principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Act,", and by striking out in such subsection the word "Chairman" and inserting in lieu thereof "Co-chairmen";

(2) by adding in subsection (a)(2) thereof after the word "Secretary," the words "and the principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Act.";

(3) by striking out all of subparagraphs (A) and (B) of subsection (a)(3) thereof, inserting in lieu thereof the new subparagraph (A) which shall read—

"(A) the Secretary of Education,",

and relettering subparagraphs (C), (D), and (E) of paragraph (3) as (B), (C), and (D), respectively; and

(4) by adding to subsection (c) thereof a new paragraph (2) which shall read:

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions of under the Dependents' Education Act of 1978 to the Secretary and Department of Education,",

and renumbering paragraphs (2), (3) and (4) of subsection (c) as paragraphs (3), (4), and (5), respectively.

(l) Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health,

Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or program transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions, offices, or programs have been transferred to the Secretary, and funds appropriated to such functions, offices, or programs, for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions, offices, or programs of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with establishment of the Department or transfer of functions, offices, or programs thereto until such time as funds for these purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

Calendar No. 54

96th Congress
1st Session

SENATE

REPORT
No. 96-49

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 210

TO ESTABLISH A DEPARTMENT OF EDUCATION

together with

ADDITIONAL AND MINORITY VIEWS

MARCH 27 (legislative day, FEBRUARY 22), 1979.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
42-638 O WASHINGTON : 1979

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96th Congress } SENATE { Report
1st Session } { No. 96-49

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

March 27 (legislative day, February 22), 1979.—Ordered to be printed

Mr. Ribicoff, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 210]

The Committee on Governmental Affairs, to which was referred the bill (S. 210) to establish a Department of Education in the executive branch, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

The Need for a Department of Education

The Committee on Governmental Affairs has spent more than two years considering legislation to separate education from HEW and give it Cabinet rank. In its lengthy investigation, the Committee has found there is indeed a significant, but carefully restrained Federal role in education. Total Federal spending for education is more than $25 billion annually. That Federal effort, however, is severely hampered by its burial in HEW, its burial in HEW, its confusing lines of authority and administration, its fragmentation, and its obvious lack of direction. A hampered and deficient Federal education effort places an adverse strain on States, localities, and public and nonpublic educational institutions. The Committee believes the establishment of a Cabinet-level Department of Education will go far towards remedying these problems, thereby enabling the Federal government to improve its contribution to the betterment of American education. There is a strong and persuasive need for a Department of Education.

INCREASED STATUS AND VISIBILITY

Establishment of a Department of Education would greatly increase the status and visibility of education in the Federal government and give it rightful recognition as a fundamental activity of American life.

Throughout the Federal government today, education is lodged between and under layers of bureaucracy, and resides in fourth and fifth-level bureaus and offices. There is no one Federal official who speaks for education's needs and problems—and no one to work with Congress and the President to develop remedies for them.

In the United States, the people are involved in decisionmaking at all levels of government, so education is and should be of concern to Federal, State, and local governments. The process of education is basic to our society and to the proper functioning of democratic government. Democracy depends for its very existence on a highly educated citizenry.

Education is, perhaps, the single most pervasive function of American society. Education today directly involves more than 60 million Americans. Total education spending in the U.S. today exceeds that spent on the national defense by one-third. More than $145 billion—nearly 10 percent of the gross national product—was spent nationwide last year on education. It is as important a function as commerce, labor, housing, transportation, or agriculture (which are represented in the nation's Cabinet).

In testimony before the Committee, U.S. Commissioner of Education Ernest Boyer said:

> Education has always been the driving engine of this democracy. It stimulates our culture. It contributes dramatically to our economy. It is the foundation upon which our government is built. Education and democracy are inextricably interlocked, and it should have full partnership at the highest levels of government where the Nation's priorities are shaped.

More and more, it is apparent how closely education meshes with all other facets of American life. And, in this increasingly complex world, education programs are developing everywhere just to explain new technologies in energy, health, science, agriculture, business, and many other fields.

There is a real need for a Cabinet Secretary of Education, who could work together with other members of the Cabinet to better explain the world's complexities and prepare Americans for their future.

The Reverend Jesse Jackson told the Committee:

> The elimination of ignorance, poverty, and disease requires increased emphasis on education. Aiding the developing third and fourth world nations requires education. The issues of world peace and justice demand that increased education play a part. Space travel and ecological concerns require an increased educational focus. Creatively developing the world's renewable energy resources demands mind development. In short, everything worth doing and accomplishing has education as a foundation from which to start. . . . Education needs a full-time advocate.

Creation of a Department of Education, headed by a Cabinet Secretary of Education, will elevate education to the highest levels of the Federal government. The Cabinet signifies all that is important to us, and represents the nation's council of men and women of great wisdom and intellect. They are advisors not only to the President and to the Congress, but to the American people.

In testimony before the Committee, it was cited that the Federal government's highest ranking education officials never had private meetings with the President of the United States. The Committee was also told that the Federal Officials discussing education most with the President is not the Secretary of HEW, nor the Commissioner of Education. Instead, it is the Attorney General.

Access to the President—something rarely realized before by a Federal education official—would be institutionalized through the establishment of the Department of Education.

The Committee believes the establishment of the Department of Education will increase significantly the status and visibility of education not only within the Federal government, but also within the American conscience. As a result, education would continue to play an integral part of our lives.

Increasing the status and visibility of education will have the beneficial effect of increasing scrutiny of, and participation in, education programs and services by the general public. A Cabinet Secretary of Education will be in a position to bring to the attention of Congress, the President, and the American people education matters which are ever-changing.

HEW'S INSTITUTIONAL DEFICIENCIES

Of paramount concern to the Committee has been the extreme size, responsibilities, and unmanageability of the Department of Health, Education, and Welfare, the largest Cabinet department of the U.S. government.

Only two organizational entities on earth have budgets larger than HEW's—the governments of the United States and of the Soviet Union. In Fiscal Year 1980, HEW's budget will break the $200 billion mark—nearly 40 per cent of the total Federal budget. Of this, nearly 95 per cent will be spent on health and welfare programs, the remainder on education ($13 billion).

HEW's more than 325 programs inevitably touch nearly every living American. Social Security, Medicare, Medicaid, Aid to Families with Dependent Children, and a host of other comprehensive programs serve most of the Nation's 220 million citizens. They are all vital to the daily survival of many people. HEW's mandate to safeguard the health and welfare of the American people is an awesome responsibility. So awesome, in fact, that the HEW Secretary has all he or she can do just managing health and welfare services. Education inevitably suffers. In its examination of the history of HEW, the Committee has found a severe institutional defect in the Federal structure—the lumping of health, education, and welfare programs together in one Cabinet department.

Repeatedly, throughout its 25-year history, HEW has been reorganized and reorganized for better management. There has been little success. Last year, the HEW Inspector General reported as much as $8 billion in fraud and abuse in health and welfare programs.

But no amount of in-house reorganization could correct the situation within HEW. The Committee finds that the overall mission of

HEW has changed so substantially since its formation that education is "out-of-place" in that Department. Education is operating separately and distinctly from health and welfare, and benefits little from nonexistent "linkages" to them.

In the last 20 years, the Federal government's role in health and welfare has expanded 10 times faster than that of education. The basic mission of HEW, consequently, has slowly evolved into funding and administering income maintenance programs—all in the health and welfare category. In this process, education has become more and more out-of-place in HEW because it is not an income maintenance activity. As such, there is virtually no interaction between education programs on the one hand, and health and welfare programs on the other.

Putting health, education, and welfare together in one Cabinet department in order to develop a comprehensive human services approach in government has not worked in the past at HEW. The facts indicate it will not work in the future. No other country in the world places these three components together in one governmental agency.

In testimony before the Committee, Education Division employees said they rarely conduct discussions or even have contact with the other 150,000 employees who work for HEW. They have reason to. Most of the six former U.S. Commissioners of Education who testified before the Committee in October 1977 agreed they were involved more in coordination with those programs outside HEW, such as the school lunch program in USDA, or the CETA program in the Department of Labor. Rufus Miles, Jr., a former director of administration at HEW for more than 12 years, told the Committee:

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. This coordination * * * is simply a figment of the imagination.

In managing a Cabinet department which has almost half of the entire U.S. government budget, most of which is in health and welfare programs, it is unreasonable to expect the HEW Secretary to devote an adequate amount of attention to education programs. The HEW Secretary carries a disproportionate burden of Federal social service responsibilities. No matter how capable the individual, the HEW Secretary simply does not have the time and energy to devote the attention necessary to manage efficiently the "H," the "W," and the "E" simultaneously. President Carter surprised the Nation last year by observing the Cabinet official who discussed education with him most was the Attorney General.

The Committee believes the establishment of the Department of Education will significantly improve the administration of, and attention given to, health, education, and welfare programs. Our Nation's health and welfare programs are so important and vital that they are deserving of the undivided attention of a single Cabinet secretary. In the same vein, so too are our education programs so very important as to merit high-level leadership at the Cabinet level.

Taking the "E" out of HEW would free the HEW Secretary of one major responsibility—education—so that he or she could better manage the rapidly-growing health and welfare programs. The Committee finds no justification for administering Federal education programs in their present form with Federal health and welfare programs in one agency. The lumping together of health, education, and welfare in a single Cabinet department has created so severe an institutional deficiency that all three components suffer from lack of attention, oversight, and scrutiny.

FRAGMENTED EDUCATION LEADERSHIP

Working within the HEW system has been a painful and frustrating job for past U.S. commissioners of education. In the last 13 years, the post of U.S. Commissioner of Education has changed hands 14 different times. This tremendous lack of stability does serious harm to the Federal education effort. Lack of continuity in programs and policies is common, and has an adverse impact on State and local governments, public and nonpublic educational institutions.

Because of the importance of education in this country, the top education position in the U.S. should be attractive enough that the most qualified people continue to be attracted to government service. In the present situation, such is not the case.

The Department of Education is sorely needed to correct the serious fragmentation in education leadership within the Federal government. As education programs have proliferated throughout nearly every Federal agency, the number of scattered, low-level bureaucrats has also increased. Within the HEW Education Division itself, leadership is split between the U.S. Commissioner of Education and the Assistant Secretary for Education. Congress created the position of Assistant Secretary in 1972 in an attempt to elevate the status of education within HEW, but left most program responsibility with the Commissioner. In recent years, the two positions have often conflicted.

By establishing the Department of Education, the positions of Commissioner and Assistant Secretary would automatically be abolished, and primary responsibility for education within the Federal government would be placed in one official—the Secretary of Education. Elevating the Federal government's top education official to the rank of Cabinet secretary would eliminate nearly all of this frustration presently found within HEW and attract the most capable men and women for the job.

INCREASED ACCOUNTABILITY

As the lead Federal official for education, the Secretary of Education will also be the most accountable. The Committee believes one of the most tangible benefits from the establishment of the Department of Education is the increased accountability of Federal education officials and programs.

In the present HEW set-up, education officials cannot be held accountable because they are submerged under layers of bureaucracy and because they are not actually the individuals responsible for many decisions. In HEW, there are three layers of bureaucracy between the Assistant Secretary for Education and the HEW Secretary, and still another layer on top of the Commissioner of Education. Most of the ultimate responsibility for policymaking and decisions on rules and regulations rests not with the Commissioner, and not with the Assistant Secretary, but instead with one of the thousands of sometimes anonymous bureaucrats in that large layer known as the "Office of the Secretary" of HEW.

Since the HEW Secretary spends the bulk of his or her time managing and dealing with health and welfare issues, a significant amount of authority is delegated to staffers of the Office of the Secretary for clearing departmental decisions on education. It is difficult for Congress or the public to hold the HEW Secretary accountable for education problems because of this.

The end result is little or no accountability in Federal education programs in the existing structure. Today, all education officials must "report to someone else." And, for citizens, parents, educators, and students, finding that "someone else" is troublesome.

But, by removing education from HEW and making it a separate Cabinet agency, there is no "someone else." The new Secretary of Education, and the ten principal subordinate officers, will be clearly visible, responsible, and confirmed by the Senate. For the first time, one individual alone will be the out-front decisionmaker and policymaker for the Federal level—the Secretary of Education. The level of accountability will rise substantially.

IMPROVED MANAGEMENT OF EDUCATION PROGRAMS

Establishing a Department of Education will greatly improve the management of Federal education programs through the creation of a clearly-ordered, well-defined structure.

Presently, there are two components of the Education Division of HEW—the office of the Assistant Secretary for Education, and the U.S. Office of Education. In its frustration over the years in trying to make education programs operate better within the HEW complex, Congress has found it necessary to reach down four and five layers deep within the Education Division and specify the structure of offices and bureaus. Nearly all of the 30-odd offices in the "E" are locked into place by statute. Their location and reporting relationships are established by law. There are few agencies of the Federal government where Congress has, over a period of time, mandated such an inflexible arrangement and structure.

The result of this piecemeal approach to government organization has been a structure that is both confusing and duplicative. The Education Division contains at least 22 "principal" officers and offices, most of which report by law to the Commissioner of Education. A few offices report to the Assistant Secretary. The continuing question has been, who has authority over who?

OFFICES AND REPORTING RELATIONSHIPS IN HEW'S EDUCATION DIVISION

Reporting to the Commissioner of Education:[1]
- Office of Policy Studies.
- Office of Legislation.
- Office of Public Affairs.
- Office of Executive Operations.
- Office of Educational Community Liaison.
- Office of School Improvement.
- Executive Deputy Commissioner for Educational Programs.

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[1] The Commissioner reports to the Secretary through the Assistant Secretary.

Regional OE Offices.
Teachers Corps.
Office of Career Education.
Bureau of Student Financial Assistance.
Office of Nonpublic Education.
Office of Bilingual Education.
Right to Read.
Executive Deputy Commissioner for Resources/Operations.[2]
Horace Mann Learning Center.
Bureau of Elementary and Secondary Education.
Bureau of Education for the Handicapped.
Bureau of Higher and Continuing Education.
Office of Indian Education.
Bureau of Occupational and Adult Education.
Reporting to the Assistant Secretary for Education:[3]
Office of Management and Budget.
Office of Policy Development.
National Center for Education Statistics.
Fund for the Improvement of Postsecondary Education.
National Council on Educational Research.
National Institute of Education.
National Museum Services Board.[4]
Institute of Museum Services.[4]

In the legislation reported by the Committee (S. 210), a simple and clearly-ordered structure for Federal education programs would be established. The number of principal officers and offices will be reduced to just 11, all reporting directly to one individual—the Secretary of Education. Further, Section 413 of the bill provides to the Secretary a method for reorganizing and rearranging the myriad of offices and reporting relationships transferred to the Department of Education. The Committee believes this will aid significantly in increasing the management efficiency and effectiveness of these programs and services.

OPPORTUNITIES FOR REDUCING FEDERAL BURDENS

Improving management, accountability, fragmented leadership, and coordination will all contribute substantially to presenting good opportunities for reducing Federal government burdens in education.

The paperwork-red tape burden from Federal education programs has steadily escalated to wasteful levels over the past two decades. One State education commissioner told the Committee he is forced to hire more than 20 staffers at average annual salaries of $20,000 just to keep up with Federal paperwork, rules, and regulations. The situation today is one where literally dozens of low-level Federal education officials are scattered throughout as many as 40 different agencies, each operating separately and independently of one another, each writing their own rules and regulations, each perpetuating their forms and data requirements. As proposed education rules and regulations creep up through the many layers of HEW and other cabinet agencies for clearance and alterations, there is a lack of focus, of perspective, of coordination, and certainly much delay in delivering funds where Congress mandates. State and local governments, public and nonpublic education institutions suffer from this confusing, duplicative situation, and in the long run parents and students suffer.

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[2] Includes separate offices for Management Evaluation/Dissemination, planning/Budgeting, Audits/Appeals, and Regulations Management.

[3] Technically, the Assistant Secretary is the principal officer of the Education Division.

[4] The Museum Services Board and Institute report to the Secretary by law, but principal oversight has been delegated to the Assistant Secretary.

In establishing the Department of Education, there are many ways in which Federal burdens can be reduced. First, the bill streamlines the structure to increase efficiency. For example, at least 15 offices would be eliminated from the clearance process for education regulations, thereby enabling the Federal government to cut clearance time down from as high as two and three years to less than one. Second, by increasing the accountability of Federal education officials, unreasonable or burdensome regulations will be pinpointed, and more openly debated and focused on by educators across the country. They will know exactly who is responsible for the decision. Third, a significant level of consolidation is achieved in the legislation so as to reduce paperwork and red tape. Finally, and perhaps most importantly, there will be a chief education official—the Secretary of Education—who will be on a par with other Cabinet secretaries and will have the clout to work with them and point out conflicting and duplicative rules, regulations, and paperwork in their respective agencies.

The Committee believes the Department of Education will work effectively towards reducing and simplifying the existing burdens that come with many Federal education programs.

MINIMIZED COSTS, MAXIMIZED SAVINGS

The Committee believes the establishment of the Department of Education will result in no additional cost, but will actually save millions of dollars. The Committee has worked to reduce administrative costs associated with Federal education programs and to increase the management efficiency, while at the same time elevating the status of education in the Federal government.

The legislation, as reported, provides for eleven principal officers and offices in the Department, down from nearly 30 connected with those offices and programs transferred. The Department of Education's budget ($14.5 billion), made up of existing staff and appropriations, will be larger than that of five existing Cabinet departments. But the Department will have the least amount of executive level positions, assistant secretaries, supergrades, and full-time permanent positions of any Cabinet department.

Although the bill provides for 42 new supergrades to assist in managing the department, the Office of Management and Budget projects that at least 350–450 positions will be eliminated in the many layers of the existing HEW structure. In the many offices dealing with education at HEW, there is a tremendous amount of duplication in staff responsibilities. For example, there are offices for management, budget, policy, planning and evaluation, legislative affairs, and public affairs in the Office of the Commissioner, in the Office of the Assistant Secretary, and in the Office of the Secretary of HEW. Establishment of the Department of Education will eliminate at least three layers of these functions and replace them with one. The savings in dollars will be substantial.

The Committee has also included a section in the legislation, Section 403, which will mandate that Congress establish each year an "end strength" for personnel employed by the Department of Education. This will be a useful device for Congress to control what some have termed "bureaucratic creep", where personnel are added and raised in status sometimes unnecessarily.

The Office of Management and Budget further estimates a long-term savings of more than $100 million through the establishment of the Department of Education. Giving the Secretary of Education the flexibility to restructure the conglomeration of small offices now existing in the HEW Education Division will improve efficiency. By consolidating the administrative functions of many of these programs, substantial savings could be realized. The new Department will also be in an excellent position to institute an improved financial management and audit system exclusively for education programs. Such a system could aid greatly in clearing up past-due accounts for student loan programs, and in auditing large education funding programs, such as the widely-known "Title I" program.

And finally, the Committee believes that by removing the "E" from HEW, there will be opportunities to improve the management and efficiency of health and welfare programs. Fraud and abuse has run high in the past in health and welfare programs at HEW. Last year, the HEW Inspector General found almost $8 billion was misspent. The Department of Health and Human Services will be in a better position to devote more scrutiny to health and welfare programs once major education responsibilities are transferred to the Department of Education.

PUBLIC SUPPORT FOR THE DEPARTMENT OF EDUCATION

The Committee is impressed with the widespread public support for a Cabinet-level Department of Education.

Parents, citizens, students, teachers, school administrators, State and local government officials, and many other individuals from all walks of life have contacted the Committee to express their support for the new Department.

More than 100 major national organizations and associations have endorsed the Department of Education proposal. They include most education organizations, and labor, civil rights, citizen, and parent groups. It is important to note the Department is supported by a number of State and local organizations, including the National School Boards Association, National Association of State Boards of Education, Council of Chief State School Officers, Education Commission of the States, and National Conference of State Legislatures.

The Committee believes the establishment of the Department of Education is in concert with established and traditional American public support for education, and for efficient and responsive government.

PURPOSE OF THE LEGISLATION

The purpose of S. 210 is to provide for the establishment of a separate Cabinet Department of Education.

President Carter, in his State of the Union Address January 23, 1979, commented on the importance of the new department:

"Education issues deserve far more attention than they receive in a Department as large and complex as H.E.W. * * *". The new department, he said, will "enable the Federal Government to be a more responsive and reliable partner with States, localities, and private institutions that have primary responsibility for education."

The need to provide equal access to education for all Americans, advancing technologies, declining school enrollments, failing confidence in public education, high drop-out rates, increasing numbers of older citizens interested in lifelong careers, displaced homemakers, and a myriad of other factors present new challenges to our educational institutions.

The bill specifically addresses the need for improved management of existing Federal education programs at the Federal level. Its purpose is to supplement and complement the efforts of States and local governments in their education efforts to meet the education challenges facing them.

At present, the Federal government is conducting education programs in nearly 40 different agencies at a cost of more than $25 billion in 1979. The rapid growth of Federal education programs has caused a piecemeal approach in their administration. There is no one to speak for education in the President's cabinet or to attempt to coordinate the myriad of education programs. Furthermore, a more serious problem is the lack of accountability for education at the Federal level. Although billions of dollars are spent, there is overlap and duplication of burdensome regulations which adds to the frustration of States and localities in the administration of Federal education programs. Thus, the purpose of S. 210 is to make the Federal education effort more effective and coordinated in order to improve the quality and administration of Federal assistance to education.

Education in the United States has traditionally been a function of State and local governments and private institutions. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent.

The intention of S. 210 is to preserve this prerogative. There is a need to ensure that the Federal presence in education should be supportive, helpful and effective. Testimony before the Committee by Mary Berry, Assistant Secretary for Education of the Department of Health, Education, and Welfare, highlighted the limitations of the Federal role and policy in education. It has developed, she said—

> as a result of Congressional enactment and, to a limited extent, court decree. It has and must continue to be a secondary role—one that assists, not one that directs local and State governments, which have historically shouldered the primary responsibility for the public education of the very young, our college and university students, and the elderly.

Federal responsibility in education is especially focused on assisting State and local agencies to provide educational opportunities for the poor, the disadvantaged, the limited English-speaking and the handicapped. It is focused on ensuring that race, sex, age, national origin or handicapped status does not preclude access to and receipt of a quality education. Federal responsibility is also concerned with providing information and supporting research efforts which will advance education programs and learning opportunities. And, importantly, the Federal government has a responsibility to assist State and local education agencies in carrying out their statutory and State constitutional responsibilities.

The purposes outlined in the bill highlight the view of the Committee with respect to its intent in establishing the Department:

(1) To enable education to receive the appropriate emphasis at the Federal level. By establishing a Cabinet Department of Education, effective management and coordination of Federal programs can be substantially improved. The relatively low bureaucratic status of the Office of Education means that education receives less attention from the Cabinet and the President. The large number of existing Federal education programs has created management problems at the Federal, State, local, and institutional levels. The scattering of programs across Federal agencies has resulted in poor coordination in addition to multiple, duplicative and even conflicting regulations. Fragmentation at the Federal level has led to piecemeal approaches to education and education-related problems.

(2) To continue and strengthen the Federal commitment to ensuring access by every individual to equal educational opportunities. Equal educational opportunity has been and must remain a major educational goal of the Federal government. The Federal government has acted to ensure equality of educational opportunity for every American regardless of race, sex, age, ethnic heritage, economic disadvantage, or handicapped condition:

Racial minorities.—Through compliance efforts, technical assistance, and financial assistance the Federal government has promoted racial desegregation.

Handicapped.—Through Public Law 94–142 (the Education for All Handicapped Children Act) and section 504 of the Rehabilitation Act of 1972, the handicapped are guaranteed an appropriate education.

Language minorities.—Several Federal programs help to deal with the problems of children with limited English language skills.

Women.—Several Federal programs, and statutes such as the Women's Educational Equity Act, and title IX of the 1972 education amendments, are designed to help end sex discrimination.

Compensatory education.—Title I of the Elementary and Secondary Education Act has provided compensatory education for the economically disadvantaged.

Access to higher education.—The Higher Education Amendments of 1972 began to give students from low-income families access to higher education.

Native Americans.—A number of Federal programs in the Office of Education make it possible for Indians, Alaska Natives, and Aleuts to receive adequate education services.

Migrant children.—The Federal Government provides a variety of services for migrant children.

As a result of these and other Federal initiatives—increased access to postsecondary education, bilingual education, and the education of all handicapped children—schools and colleges have dramatically increased their efforts to meet the educational needs of children and youth, particularly those from poor families and minority backgrounds.

S. 210 ensures the continuation and strong support of the Federal commitment to ensuring equal educational opportunities for every individual regardless of race, sex, age, ethnicity, economic disadvantage, or handicapping conditions. In conjunction with this responsibility, it establishes an Office for Civil Rights whose director would report directly to the Secretary. To emphasize the importance of civil rights compliance, the director's position is upgraded to an executive level IV.

(3) To supplement and complement the efforts of State, local, and tribal governments, the private sector, public, and nonpublic educational institutions, education research institutions, community organizations, parents and students to improve the quality of education.

S. 210 recognizes that Federal education policies should be founded on the recognition that Federal, State, and local governments, tribal governments, public and nonpublic institutions, communities, parents, teachers, and students are the prime participants in education policies and practices. One of the major purposes of the Department will be to provide a mechanism to better assist these groups in their efforts to improve the quality of education.

The bill establishes an Intergovernmental Advisory Council on Education. The Council would conduct studies and make recommendations to the Secretary and to the President and, where appropriate, to the Congress for improving the intergovernmental system for developing and carrying out educational policies.

The Council is designed to supplement and complement State and local efforts to meet the Nation's education needs.

Specific responsibilities in the area of intergovernmental relations have been assigned to the Under Secretary who will be involved in the day-to-day policy-making and budgetary decisions within the Department.

(4) To encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services. Not only would the Department of Education increase the visibility and attention given to education needs at the Federal level, but it is designed to increase the participation of families, communities, public and private schools, and State and local governments in this process.

A higher level of citizen participation in the educational decisionmaking process will serve to substantially increase public confidence in our educational system.

S. 210 recognizes the need for increased citizen involvement by providing for an effective structure through the proposed Office of Citizen, Parent, and Student Concern, and the Intergovernmental Advisory Council on Education, to ensure citizen involvement.

(5) To enable the Federal government to coordinate Federal education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness.

The establishment of the Department of Education will provide a mechanism to improve the coordination of Federal education programs. The current status of education in HEW and in other Federal departments has resulted in duplication and lack of coordination of the Federal education effort. It will provide for a streamlined organizational structure. Presently, education in HEW consists of at least 22 principal offices which either report to the Secretary of HEW, the Commissioner of Education, the Assistant Secretary of Education or to the Director of the National Institute of Education. The new Department would eliminate this duplication and, thereby, provide an opportunity for the Secretary of Education to coordinate education programs internally and with other Federal agencies. The statutory authorization of the Federal Interagency Committee on Education, with the Secretary of Education as its Chair, provides a vehicle to improve this coordination.

(6) To provide an improved organizational structure for Federal assistance in the support of basic and applied educational research and to implement the findings of such research at the local level.

The importance of education to the American people remains high. Yet, at the same time, concern over the lack of quality education is more and more evident. This is demonstrated by concern over declining student achievement, as measured by scholastic aptitude tests and decreased public confidence in the quality of education.

The bill provides a structure to assist in promoting the quality of and the relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities.

S. 210 provides for a consolidation of the Federal research functions with respect to educational improvement in the Department. With the establishment of the Office of Educational Research and Improvement, a wide range of disparate and overlapping programs will be brought together. The establishment of such an Office, headed by an Assistant Secretary for Educational Research and Improvement, will help support research efforts to improve teaching and learning.

(7) To supplement and complement the efforts of State, local, tribal, public and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, including the reduction of paperwork. In testimony before the Committee, Dr. A. Craig Phillips, President, Council of Chief State School Officers, stated, "Efficiency in delivering educational services would be greatly enhanced by creating a single agency so that

responsibility for Federal action or inaction would be focused and not diffused . . . each agency, with its own rules and regulations, runs its own show, does its own thing, so to speak, with no single agency having the ultimate responsibility for the success or failure of it all." The establishment of the Department provides a mechanism to assist States and localities and educational institutions in their own educational policies and programs. By eliminating the many layers of bureaucracy within HEW and providing education with a single focus, the Secretary will be able to coordinate education activities within the Department and with other agencies and Departments in order to reduce duplication and unnecessary regulations.

IMPROVING THE FEDERAL GOVERNMENT'S RESPONSIBILITIES IN EDUCATION

PROBLEMS IN AMERICAN EDUCATION

The Committee's consideration of Department of Education legislation comes at a time when problems in American education are particularly serious.

While Americans continue to strongly believe in education as the key to success and fulfillment, their confidence in the capabilities of our educational institutions continues to fall. Recent polls continue to show that more than half of the public feels the quality of education in our schools is declining.

With the decline in confidence comes a decline in educational awareness and interest, and a drop-off of parent involvement in the schools.

This low level of confidence stems from a variety of sources. Achievement and college entrance test scores show a persistent, long decline over the last decade. More and more students are found to enter college with deficiencies in basic skills. Many colleges and universities are resorting to their own basic skills tests and brush-up courses.

Recent Federal studies have shown students are becoming more disillusioned with their public schools. Student absenteeism is on the rise. There is a shocking escalation in vandalism. A large number of teachers are either hurt or killed each year by violent students. The schools are losing their ability to be instruments of social change by this disillusionment.

School officials continue to be perplexed by the problem of reconciling declining enrollments and increasing costs. As the birth rate in the U.S. continues its steady downturn, inflation has driven up the cost of educating children. Instead of being able to save money where fewer students are attending school, a local school district today is actually paying more than before.

A disturbing result of this lack of confidence is the rebellion of many American taxpayers against taxes to finance public education. Bond issues are being defeated in record numbers. Many States are being forced to totally change their methods of financing public schools because of orders handed down by the courts. States and localities spend the greatest amount of their budgets—approximately 40 percent—for education.

These problems are serious, but there is no coordinated effort from the Federal level to help localities. While a Department of Education in and of itself could not solve education's tremendous problems, its primary purpose will be to supplement the States' and localities' efforts to deal with these problems.

A Federal Department of Education should *not directly* improve American education. It is not intended to do so, because that is really the province and duty of the States and localities. However, the Committee believes better organization and management of Federal education programs will better assist States and localities to improve education for students. In the long run, the level of confidence might rise and parents will take a more active role in helping their local school districts fulfill their job.

The Committee believes the Department of Education will have a positive, beneficial, *indirect* effect on improving American education and assisting parents and educators in the drive for educational improvement.

A LEGITIMATE FEDERAL ROLE

The Federal government has been involved in education for more than a century. It has reacted responsibly in meeting needs when States, localities, and private institutions had difficulty meeting them. The obvious examples are the passage of the Elementary and Secondary Education Act and the National Defense Education Act. In all cases, Congress has been careful to stick to the Constitutionally-backed principle that the Federal role is limited to supplementing, not supplanting, State and local prerogatives and rights in determining their individual educatonal program.

The Federal role in education, therefore, is a legitimate but restrained one. Today, there are important Federal policies and programs to aid education in the United States. They include:

Guaranteeing equal access to educational opportunities;

Conducting and disseminating comprehensive research into new ideas, trends, or problems in education;

Providing assistance to States and localities for educating the handicapped or disadvantaged;

Providing valuable complementary financial assistance to States and localities so as to insure the people are receiving a quality education; and

Maintaining significant higher education loan and grant programs to open doors for all students desiring to continue their education beyond public school.

This role has grown from the $400 million budgeted for the U.S. Office of Education in 1953 when HEW was created, to more than $25 billion today, scattered about 40 different Federal agencies. The budget of the Education Division of HEW—which will make up the core of the new Department—alone exceeds $13 billion, which is more than the budgets of five existing Cabinet departments (State, Justice, Commerce, Interior, and Energy).

The Federal activity in supporting education is of such a sufficiently large magnitude and size as to justify independent Cabinet status. Its activities are given strong popular support by the American public. It is too important to be mismanaged or denigrated within the Federal government structure.

INSURING STATE AND LOCAL CONTROL

The Committee believes the establishment of the Department of Education will not adversely affect or diminish State, local, and private control of education in the United States. In fact, the Department is needed to insure that the Federal government remains a partner in the educational process, and that it does not supplant State and local rights in education.

From the birth of the United States through today, responsibility for education has rested primarily in the hands of State and local governments, public and nonpublic institutions. State and local control is institutionalized in this country. It is the key to the outstanding success of the American educational system, as compared with other industrial nations where education is centralized in national ministries. Local control is deeply imbedded in the fabric of American society, and cannot be changed through the simple act of giving education Cabinet status at the Federal level. At least 38 per cent of the budgets of State and local governments is spent for public education.

In its study of the operation of Federal education programs, the Committee has found an elaborate system of checks and balances to resist Federal encroachment in education. Continuously, education and State and local interests check and monitor proposed and existing rules, regulations, and data requirements. But, as programs continue to fragment and operate without direction or coordination, they threaten to destroy this delicate system of checks and balances. Educators, parents, and State and local governments cannot pinpoint the responsible Federal officials, and much accountability is lost. The end result will inevitably be more Federal encroachment. These educators, parents, and State and local governments will find a Department of Education more accountable, and more responsive to their needs .These checks and balances will operate more effectively if there is one, visible, and readily identifiable education position—the Secretaryship of Education. This community of people concerned about Federal education services will interact with one Cabinet secretary, instead of several lower-level officials as is now the case.

The Committee also senses a hidden danger in continuing to administer education programs side-by-side with health and welfare programs. Responsibility for health and welfare in the U.S. today rests primarily with the Federal government. HEW today accounts for most of the money spent by government for health and welfare services, such as Social Security, Medicare, Medicaid, Aid to Families with Dependent Children, and possibly in the near future, national health insurance. So the HEW administration faces conflicting mandates. Responsibilities in health and welfare are primarily national in scope and character, whereas those for education are primarily local. Given HEW's central role, there will inevitably be strong temptations within the Office of the Secretary—which makes most decisions for all of HEW—to impose a harder, or stiffer requirement on some education programs, instead of exhibiting more sensitivity towards the central role played by local educators. Representatives of State and local governments, education interests, and other public and nonpublic educational institutions often brand this mindset as the "HEW mentality." As health and welfare programs continue to expand dramatically—to more than half of the entire Federal budget within five years—and as the proportion of HEW's budget for education continues of necessity to rapidly decline, the national focus of HEW can only intensify.

In contrast to the Secretary of HEW, the Secretary of Education's one and only field—education—is not controlled or even primarily supported by the Federal government. The Secretary of Education will be forced to devote more attention to the real needs and problems of States and localities in education, for his constituents will hold most of the control and dollars in education. A new partnership will have to develop, and it will be one which recognizes that the Federal role is limited to supplementing and complementing local education.

Recognizing the importance of retaining local control of education in the United States, the Committee has written strong language in the legislation to protect the rights of States, their local school systems, and other instrumentalities of the States, public and nonpublic educational institutions to determine their own educational programs and policies.

Further, the Committee believes the Intergovernmental Advisory Council on Education created by the legislation will aid greatly in acting as still another outside check on the Department of Education for its sensitivity towards local control. The Council, made up primarily of State and local government and education representatives, will be an important voice in insuring the gains made through the establishment of the department for improving the efficiency of the Federal role and reducing Federal burdens are preserved and continued even further. Its power to review existing and proposed rules and regulations is particularly valuable in insuring State and local control of education.

BALANCED EDUCATION INTERESTS

The Committee has been careful, in the establishment of the Department of Education, to balance all educational interests and prevent domination by one over another.

In the new department, the assistant secretaries, Inspector General, General Counsel and Director of the Office for Civil Rights will all be on an equal footing with each other. Each position will be accorded the status of Executive Level IV.

In the present HEW set-up, there is little balance and much inconsistency. Offices serving elementary/secondary and higher education interests, for example, are scattered about the Office of Education. Most research offices are found at higher levels in the Education Division, mainly the office of the Assistant Secretary for Education. In all cases, some offices report to the Commissioner, at the lowest level, and some report to the Assistant Secretary, at a higher level.

S. 210 eliminates this confusion. No one interest will be able to dominate over another because their principal officers will all be equal in stature, and all will report to the single, top official—the Secretary of Education.

Further, the Committee notes that in terms of budget, elementary and secondary education will be roughly on a par with higher education. Each office will have about $5.5 billion in budget authority.

The Department of Education will serve all aspects of education, from elementary/secondary education, to higher and continuing education, to occupational, adult, and community education, to education of the handicapped, and to research of all areas of education. Thus the new Department will represent the entire spectrum of education.

BETTER INTERAGENCY COORDINATION

The Committee has made an effort to consolidate as many Federal education programs in the Department of Education as is practical and feasible at this time. The legislation as reported will consolidate 170 education programs.

However, interagency coordination of Federal education programs will be an important task of the new department and the Secretary of Education. The Committee believes better coordination will result through this reorganization.

Several education programs will remain with their parent agencies primarily because their basic mission, at this point in time, is tied more closely to that of the present agency than that of the new department. For example, the veterans education programs appear to be part of a comprehensive veterans service agency. The CETA program today is related more to public service employment than to education, although it does have educational components. Yet coordination between programs of the Department of Education and programs such as these will be vitally important if we are to get the most of our education dollar.

One important value of coordination is found in different agencies working together to share information and data so that duplicative reporting requirements could be eliminated.

Still another benefit from better coordination lies in the joint review by different agencies of requirements imposed by their rules and regulations on States, localities, and public and nonpublic institutions. Conflicting mandates could be eliminated and changed.

But to date, the many attempts at meaningful, successful coordination of Federal education programs have, for the most part, failed. The principal reason is that there is no one, high-level Federal official to take the lead role in coordination. The HEW Secretary has virtually no time to devote to meetings and conversations with fellow Cabinet officers for coordination of education programs. His or her hands are tied with health and welfare coordination. The Assistant Secretary for Education has attempted to make coordination work as the chair of the Federal Interagency Committee on Education, which is now authorized by executive order. But because of FICE's low status, only low-level bureaucrats represent the different agencies, and have little authority to make necessary changes and adjustments.

The best coordinating committee in the Federal government is the Cabinet. Cabinet secretaries regularly coordinate with one another because of their stature. They are on an equal par with one another in the Federal hierarchy. The two top education officials—the Assistant Secretary and the Commissioner—operate far below this high-level decision-making system and are not able to interact with Cabinet secretaries of other departments. In contrast, a Secretary of Education would become an equal partner in the nation's Cabinet, and would be in a far superior position to coordinate his programs with those of other secretaries. In addition, the President is often responsible for spurring coordination, done mainly through the Cabinet. But since the President does not have any contact with education officials, who, of course, do not sit at the Cabinet table, coordination of education programs is never considered. President Carter has often remarked that he has never heard education matters discussed at one of his Cabinet meetings.

Put simply, coordination fails when it is dropped in the hands of Federal officials below the policy-making level. The new Secretary of Education will be assigned the lead Federal role for coordinating education programs both within the Education Department, and with those of other Federal agencies. The legislation places coordination as one of the highest priorities in establishing the Department of Education. It specifically authorizes, by law, the Federal Interagency Committee on Education, and specifies that its members shall be from the policy level and the chairman shall be the Cabinet Secretary of Education. The Committee believes this will upgrade the effectiveness of coordination in the Federal government.

ALTERNATIVES

In studying Department of Education legislation, the Committee examined a number of alternatives to the establishment of a separate Cabinet department, none of which proved feasible or as beneficial and workable.

The Committee found widespread agreement that there are indeed serious management problems within both HEW and within the Education Division of HEW. But many disagree whether leaving education within HEW and reorganize that department internally or separating education completely would be the best course to follow.

Those who want education left within HEW argue in favor of the Department of Defense "subcabinet" model, where there would be subcabinet "secretaries" for health, for education, and for welfare under the HEW Secretary, or a Secretary of Human Resources. In DOD there is a Secretary of Defense, a Deputy Secretary, the office of the Secretary, and three subcabinet secretaries, for the Army, the Air Force, and the Navy.

The Committee believes there would be little improvement, if any, in reorganizing HEW by this model as opposed to establishing a separate Education Department. Perhaps the best explanation of the faults of such an arrangement was contained in a letter to the Vice President by Senators Magnuson, Ribicoff, and Pell in 1977:

> Patterning HEW after the DOD subcabinet model would be little more than a simple facelift, and in the end, do much harm to the overall Federal education effort. Such a reorganization would drastically increase and centralize the HEW Secretary's powers and duties. A Secretary of Education within HEW would only serve as an Administrator—not a policymaker.
>
> The education functions could even be further buried in unnecessary layers of bureaucracy. If the present Department of Defense organization is any indication of what we could expect, the Education "subsecretary" would probably be rele-

> gated to a lower position within HEW, under as many as nine assistant secretaries and a deputy secretary in the Office of the Secretary.
>
> Furthermore, the Education Division's budget would continue to be outnumbered, 18 to 1, by HEW's massive health and welfare program expenditures. The HEW Secretary, out of necessity, would continue to be preoccupied with pressing health and welfare concerns. Education would take a back seat, as it has always taken.

The Committee has found little reason to adminster education programs with those of health and welfare. The missions and focuses of the two differ significantly and they infrequently interact or coordinate with each other. The Committee has concluded that education should be removed from HEW.

Another alternative discussed on the floor of the Senate during debate on the bill (S. 991—95th Congress) to establish the Department of Education was to give education independent agency status, instead of Cabinet status. The Committee and the Senate rejected this proposal as inconsistent with the goal of elevating the status of education in the Federal government. Throughout the last 20 years, there has been a rise in the number of independent agencies. Today, there are 75 of them in operation. The important distinction is that education is basic to their work and the work of the 12 Cabinet departments. It is a function that cuts across all the others, and therefore deserves Cabinet rank. The biggest disadvantage of the independent agency model is that the head of the agency would not have enough stature, clout, and visibility to be the lead spokesperson for education in the Federal government. That official would also not be in a position to effectively coordinate scattered Federal education programs.

The Committee has given the Department of Education concept more than two years of careful examination and thorough study. It believes education deserves Cabinet rank, and will benefit greatly by becoming the Nation's 13th Cabinet department.

HISTORY OF THE LEGISLATION

Efforts to create a Cabinet-level Department of Education in the Federal Government have been ongoing, often sporadically, for the past 125 years.

In March 1867, Congress created a non-Cabinet Department of Education, primarily to collect statistics and other relevant data on the condition of American education. Unfortunately, this non-Cabinet agency never really got off the ground. Its budget was less than $15,000. It had less than 10 clerks and existed for only slightly more than 1 year. The Department was subsequently given bureau status and placed within the Department of the Interior for the next 70 years.

In 1939, the U.S. Office of Education was transferred from the Interior Department to the new Federal Security Agency created by President Franklin Roosevelt.

The Office of Education has remained in the Department of Health Education, and Welfare since its creation in 1953 under the Eisenhower administration.

From 1908 through 1951, more than 50 pieces of legislation to establish a separate, Cabinet-level Department of Education were introduced in Congress. In that time period, nearly 20 days of hearings were held on several bills, and at least six were actually reported to either the House or the Senate floor for final consideration. No action, however, was ever taken beyond the committee stage.

Yet, education advocates gave much effort and consideration in the first half of the 20th century to the creation of a separate Education Department. As far back as February 1910, then U.S. Commissioner of Education Elmor Brown, in testimony before a congressional committee on the issue, predicted:

> A time will be reached when the erection of such a department of the Government as this measure contemplates will be necessary to good administration.

In a December 1923 message to Congress, President Calvin Coolidge gave his support to the concept of the separate Department:

> Having in mind that education is peculiarly a local problem, and that it should always be pursued with the largest freedom of choice by students and parents, nevertheless, the Federal Government might well give the benefit of its counsel encouragment more freely in this direction. I do consider it a fundamental requirement of national activity which is worthy of a separate department and a place in the Cabinet.

And in 1931, the National Advisory Committee on Education recommended the creation of a Cabinet Department of Education:

> No bureau chief or head of a detached or independent establishment can give the equal access to the Chief Executive and that equality of approach to the heads of all departments concerned essential the effective total operation of education of education in government. The presence in the government of an officer of cabinet rank would insure that effective contribution of education which is essential to the future political and social welfare of the nation.

The Federal effort in education continued to grow dramatically after the creation of HEW in 1953. The budget for the Office of Education jumped from approximately $400 million then, to $4 billion during President Johnson's Great Society initiatives, to more than $10 billion today.

And as the Federal effort increased, so did calls in Congress for the creation of an Education Department separate from HEW. From 1953 to the present, more than 80 pieces of legislation were introduced in Congress and a large number of authoritative studies were conducted.

Under the Johnson administration, three separate task forces seriously studied the concept of a Cabinet Department of Education. The 1964 Task Force on Government Reorganization favored an Education Department:

> Because the schools have been afraid of Federal domination, the Government has never had a comprehensive policy for the advancement of education and research. But it is unrealistic to think we can protect the freedom of education by pretending to ignore it.

Also in 1964, a study team headed by then HEW Secretary John Gardner was split between creating an independent Office of Education at the Presidential level and creating a Cabinet department. Still another group, the Heineman task force, concluded in 1967 that a Department of Education was not necessary at that time.

Much attention was focused on the introduction of S. 100 (the Department of Education Act) in January 1965 by Senator Ribicoff. A former Secretary of Health, Education, and Welfare, Senator Ribicoff said a Department of Education was necessary because education was not receiving the attention it deserved in the burgeoning and increasingly unmanageable HEW Department. The Ribicoff bill has been reintroduced in every Congress since then.

The 1970's brought a renewed interest in the establishment of a Cabinet-level Department of Education. In the 1972 Presidential campaign, the Democratic candidate, Senator George McGovern, announced his support for giving education Cabinet status. In 1976, the Ford Foundation and the American Council on Education sponsored a landmark study on the issue, authored by Rufus Miles, Jr., formerly HEW director of administration throughout the 1960's. The Miles study gave strong backing to the creation of a Department of Education.

President Carter, throughout his 1976 campaign for the Presidency, pledged that in his proposed reorganization of the Federal Government, he would create a Department of Education.

In March 1977, Senator Ribicoff again introduced his legislation. This time, however, more than half of the members of the U.S. Senate joined him in cosponsoring the bill, S. 991. In the U.S. House of Representatives, nearly 30 different pieces of legislation to create a separate Department were also introduced in the 95th Congress.

Upon taking office, President Carter set up the President's reorganization project to study the Federal Government structure and recommend reorganization proposals. The project's education study team began work in April 1977. In late November 1977, they presented to the President for his review three options: (1) The creation of a Department of Education; (2) the creation of a Department of Education and Human Development; and (3) an uplifting of the status of the Education Division within HEW. The President decided in favor of the establishment of an Education Department, and announced his decision in his state of the Union Address in January 1978.

Meanwhile, the Committee on Governmental Affairs opened the first congressional hearings on Department of Education legislation in nearly 25 years. On October 12 and 13, 1977, prominent academic authorities, major national education organizations, and six former U.S. Commissioners of Education testified on the need for the Department.

The committee devoted 10 days of hearings to S. 991 and heard testimony from more than 100 witnesses. Committee markups on S. 991 were held July 11, 14 and 18, 1978. S. 991, the Department of Education Organization Act, was unanimously ordered reported by the Committee for full Senate consideration.

The House Committee on Government Operations gave much consideration to a Department of Education bill, H.R. 13343, introduced by Committee Chairman Rep. Jack Brooks, of Texas, on June 29, 1978.

Its Subcommittee on Legislation and National Security held five days of hearings on the bill (July 17, 20, 31, and August 1 and 2), and reported a clean bill, H.R. 13778, to the full Committee on August 8. By a vote of 27-15, the full Government Operations Committee ordered H.R. 13778 reported for full House consideration on August 15. The bill was granted an open rule and a two-hour general debate limitation by the House Rules Committee on September 14, 1978.

The following week, the Senate began nearly 10 hours of debate on S. 991, running over three separate days—September 19, 20, and 28. After four roll call votes, the Senate passed S. 991 on September 28, 1978, by a vote of 72-11.

The House bill, however, continued to be on the calendar, awaiting floor action. But in the end-of-session legislative logjam, the House bill could not be scheduled for full House floor consideration.

A week later, both President Carter and Vice President Mondale, along with House and Senate sponsors, pledged to renew their efforts to establish a Department of Education in the 96th Congress.

Senator Ribicoff introduced S. 210, on January 24, 1979. The Governmental Affairs Committee held three days of hearings, February 6-8, and ordered the bill reported March 14.

President Carter sent a special message to Congress on February 13, 1979, transmitting his proposed legislation to establish a Department of Education. On behalf of the Administration, Rep. Brooks introduced H.R. 2444 on February 27, and Senator Ribicoff introduced S. 510, the companion bill, on March 1.

SUMMARY OF THE LEGISLATION

PROGRAMS TRANSFERRED

Program	Fiscal year 1979 budget [1]	Staff [1]
From HEW:		
The entire Education Division	$12,720,199,000	4,168
Office for Civil Rights	69,427,000	1,000
Grants to special institutions: Howard University, Gallaudet College, American Printing House for the Blind, National Technical Institute for Deaf	178,757,000	1
Health professions student loans	10,000,000	10
Nursing loans and scholarships	31,500,000	30
Telecommunications demonstration program	1,000,000	1
Vocational rehabilitation programs	870,200,000	446
The graduate school, USDA	(2)	(2)
Certain science education programs, National Science Foundation	58,700,000	90
Overseas dependents schools, Department of Defense	361,000,000	9,658
College housing loans program, HUD	(3)	3
Migrant education, Labor Department	6,500,000	2
Law enforcement education, Justice Department	25,250,000	8
Total	14,332,533,000	15,416

[1] These figures are estimates only.
[2] U.S. Government contributes no funds or staff.
[3] Revolving fund.

TITLE I

Title I states the purposes for creating the Department of Education and the congressional findings. Some of the findings are:

Education is fundamental to the growth and achievement of the nation; there is a continual need to ensure equal access to education for all Americans; the primary responsibility for education is that of

State, local and tribal governments, public and nonpublic institutions, communities, and families; the primary public responsibility for educaton is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments; the dispersion of Federal education programs had led to fragmentation, duplication and inconsistent Federal education policies; State, local and tribal governments and public and nonpublic education institutions face problems as a result of a lack of coordination of education programs at the Federal level; the present organizational position of education at the Federal level hinders presidential and public focus on education issues; the importance of education is increasing due to the complexities of our society and the need to provide equal opportunities for citizens.

Some of the purposes of the Department are:

To enable education to receive appropriate emphasis at the Federal level; to continue and strengthen the Federal commitment to equal educational opportunity; to supplement and complement State, local school systems and other instrumentalities of the States and tribal governments, the private sector, public and nonpublic institutions, including educational research institutions, community organizations, parents and students to improve educational utility and quality; to encourage parental and community involvement; to encourage the increased involvement of parents, students and the community in education; to enable the Federal government to coordinate education activities more effectively; to assist in the support of basic and applied educational research; to supplement and complete States, local, tribal, public and non-public agencies by providing support for their articulated needs, especially with respect to simplification of procedures for the dispersal of funds and the reduction of unnecessary and duplicative burdens.

The bill further states the establishment of the Department of Education shall not increase the authority of the Federal government over education or diminish the responsibility for education which is reserved to the States, the local school systems, and other instrumentalities of the States, and tribal governments. It states the intention of Congress in establishing the Department is to protect the rights of State, local and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, competency testing, and selection of curricula and program content as well as to strengthen and improve the control of such governments' and institutions' direction over their own educational programs and policies.

The Act does not require any particular organization at the State level of any programs transferred to the Department.

TITLE II

Title II establishes the Department. It creates the following offices and officers to perform respective functions. It provides for a Secretary (Level I) and an Under Secretary (Level III). In order to assure an intergovernmental perspective in the Department's overall activities the Under Secretary is assigned intergovernmental functions in addition to other duties. Title II also provide for the following offices which are headed and administered by Assistant Secretaries carrying the same titles: Office of Elementary and Secondary Education; Office of Postsecondary Education; Office of Special Education and Rehabilitative Services; Office of Occupational, Community and Adult Education; Office of Educational Research and Improvement.

There is also established in this section an Office for Civil Rights, to be administered by a Director (appointed by the President with the advice and consent of the Senate), an Office of Education for Overseas Dependent Children, to be administered by an Administrator, and two additional officers (one executive level IV Assistant Secretary position and one level V position) to perform staff functions. These functions would include: Public information; planning, evaluation, and policy development; congressional relations; administration and management; and public, parent, and student involvement. The staff functions to be performed by the one additional level IV officer would be planning, evaluation, and policy functions in addition to any other duties the Secretary may assign.

Each Assistant Secretary and the Director of the Office for Civil Rights would be compensated at the rate provided for executive level IV. The Administrator of the Office of Education for Overseas Dependents and the additional officer who is not an assistant secretary would be compensated at the rate provided for executive level V.

This title also provides for an Inspector General and a General Counsel. Each of these officers would be executive level IV's.

The Director of the Office for Civil Rights would be required to submit an annual report to the President, the Secretary, and the Congress on the Office's enforcement and compliance activities with respect to the civil rights laws relating to education.

The functions of the Department specified in Title II include chief duties of the principal officers as well as public information, congressional relations, planning and evaluation, administration and management, and monitoring parental and public prticipation.

This title also provides for the establishment of an Intergovernmental Advisory Council. The purpose of the Council is to make recommendations concerning intergovernmental policies and relations relating to education. The Council consists of 25 members, including representatives of the general public, school officials and State, local and tribal governments. The Undersecretary would serve as an ex officio member of the Council. It would provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; and assess Federal policies and make recommendations to ensure effective direction over educational policymaking and program implementation, by State, local, and tribal governments and public and nonpublic educational institutions. In addition, the Council would have discretionary authority to review existing and proposed rules or regulations of the Department and to recommend changes to make them more responsive to the needs and concerns of State, local and tribal governments, and public and nonpublic educational institutions.

The Council would be composed of 24 the undersecretary and members to be appointed by the President. In making appointments, the

President would consult with a wide variety of groups representing State and local, public interest and education groups and associations.

Lastly, this title elevates the existing Federal Interagency Committee on Education by giving it statutory authority and providing that the Secretary will be the chair. The purpose of FICE is to assist in the coordination of the procedures and actions of the Department and other Federal departments and agencies. It would consist of 17 members representing various agencies having educational interests.

TITLE III

This title provides for the transfer of agencies and functions. It transfers the following: All programs of the Education Division, the Office of the Assistant Secretary for Education, the Institute of Museum Services, the Office of Information and Resources for Handicapped Individuals, the Rehabilitation Services Administration (except for the developmental disabilities programs), the National Institute of Handicapped Research, the Interagency Committee on Handicapped Research, the Helen Keller Center for Deaf-Blind Youth and Adults and the National Council on the Handicapped. Also transferred are HEW's education functions for the Office for Civil Rights, for education advisory committees, the telecommunications-demonstrations grants, HEW's responsibilities for Gallaudet College, Howard University, the American Printing House for the Blind and the National Technical Institute for the Deaf, and the student loans for nurse training.

Transfers from other agencies include: Department of Defense's operation of overseas schools for dependents; National Science Foundation's science education programs, including programs for undergraduate instructional improvement, assistance and research in science education; Department of Justice's law enforcement student loans and grants; the Department of Housing and Urban Development's college housing program; the Department of Labor's migrant education program; and the Advisory Council on Education Statistics.

TITLE IV

This title contains the personnel provisions and general administrative authorities for the Secretary.

It provides for the appointment of personnel to the Department. it authorizes technical and professional employees for the Office of Educational Research and Improvement; 15 transitional employees; and a total of 63 positions at GS-16. 17 and 18. Of these, 42 new positions are authorized and 21 are continued.

Additionally, it provides for experts and consultants; provides for Congress to authorize an end strength for personnel for the Department; provides for authority of the Secretary to exercise the functions of the agencies and offices within the Department; and provides the Secretary authority to delegate functions to officers of the Department.

The bill prohibits reorganization of any structural entities established by statute within the Department. However, some flexibility is allowed for offices if procedures, which include specified notice requirements to appropriate congressional committees, are followed.

It redesignates reporting requirements to the Secretary which were required previously to the Commissioner of Education or the Assistant Secretary for Education. Subsequently, the Secretary is authorized to redelegate the reporting requirements to appropriate officers or employees within the Department.

Other provisions in this title authorize the Secretary to prescribe rules and regulations for the Department; to enter into contracts, grants, leases, cooperative agreements or other similar transactions with officials of Federal, public and private agencies; to provide technical assistance, advice and counsel to interested persons with respect to the Department's programs or functions; to establish, maintain, alter or discontinue regional or field offices; to maintain and acquire property; to provide for facilities at remote locations for employees and dependents of the Department; to use services and facilities of government agencies or instrumentalities with or without reimbursement; to acquire copyrights, patents or licenses, etc., if necessary; to accept gifts and bequests for the purpose of facilitating the work of the Department; and to establish a working capital fund.

In addition, the bill allows for the transfer of funds from one appropriation to another within the Department, but not to exceed 5% of the amount appropriated. It provides for a Seal of Office for the Department.

It also requires the Secretary to issue an annual report which includes an assessment of the plans for the Department. The report shall include a discussion of the effective management and coordination of functions of the Department as well as the recommendations concerning reduction of burdensome regulations and unnecessary duplication.

Finally, the title provides for the transfer of authorities under the General Education Provisions Act to the Department and authorizes sums to be appropriated for the Department.

TITLE V

Title V contains the transitional, savings and conforming provisions for the Department. Its main provisions are as follows:

Transfer and allocations of personnel and funds;

Effect on personnel. Maintains transferred employees in their present grade and compensation for one year;

Termination of operation of law of any existing office or agency all of whose functions are transferred;

Authorization of Director of Office of Management and Budget to make determinations of incidental transfers of people and funds relating to transferred programs;

Continuation of existing orders, proceedings, etc., made before the transfers by parent agencies until modified by the Secretary or the President;

Separability. (Preserves remainder of Act if any person or circumstance is held invalid);

Reference. (Ensures any other references which are applicable to the functions of the new Department refer to the Secretary or the Department);

Amendments to Defense Dependents' Education Act, including revision of membership of Advisory Council on Dependent's Education to broaden its representation to include parents and teachers;

Redesignation of HEW as Department of Health and Human Services.

TITLE VI

Title VI provides for the effective date of the Department and interim appointments. It provides for the effective date of the Department as 180 days after the Secretary takes the oath of office and allows for appointment of the principal officers and promulgation of regulations before the effective date.

SUMMARY OF HEARINGS

The Committee's consideration of legislation to create the Department of Education has spanned a two-year period, and has involved 13 days of hearings and testimony from more than 130 witnesses.

In the 95th Congress, the Committee conducted 10 days of hearings and heard testimony from more than 100 witnesses. Out of these 10 days, four were devoted to the general concept of a Department of Education and the remainder concerned the individual programs under consideration for transfer to the new department.

In the 96th Congress, the Committee conducted three days of hearings—February 6, 7, and 8, 1979. The 25 persons who testified discussed the general concept of the department, ways to insure continuing State and local control of education and improving intergovernmental relations, civil rights enforcement, the transfer of vocational rehabilitation programs, and the department's relationship to higher education and nonpublic education.

February 6: The lead-off witness was the Reverend Jesse Jackson, president of Operation PUSH (People United to Save Humanity). Rev. Jackson supported the department as a vehicle for underlining the importance of education in the United States, and for ensuring equal educational opportunity for all Americans.

Representatives of State and local organizations made up the second panel of witnesses. All made recommendations for improving the language of the legislation to protect State and local control of education. The National Governors Association, Education Commission of the States, National Conference of State Legislatures, and Chief State School Officers Council recommended that responsibility for intergovernmental relations be assigned to a high level officer in the department, preferably the Undersecretary of Education. The State and local groups also made several recommendations concerning the language of that section of the bill establishing the Intergovernmental Advisory Council on Education.

From the third panel, the Committee heard testimony in support of the Department of Education from State and local officials and black educators.

February 7: Senator Robert Morgan appeared before the Committee in opposition to S. 210. The Senator opposed the department in part because of possible domination by education organizations and of fear that it would lead to a national policy in education.

The second panel was made up of three organizations representing handicapped people and supporting the transfer of vocational rehabilitation programs to the new department. These individuals felt there would be increased coordination and cooperation between handicapped education and training programs of the Bureau of Education for the Handicapped in the U.S. Office of Education, and the Rehabilitation Services Administration in HEW, when consolidated together.

Of the three higher education organizations represented in panel three, two came before the Committee in support of the Education Department and of that provision of the legislation elevating the principal higher education official to assistant secretary rank. The Association of American Universities, however, preferred an internal reorganization of HEW rather than the creation of a separate department.

The last witness, Msgr. Paradis of the U.S. Catholic Conference, opposed the Department of Education because in part of the fear it would mean an enlarged Federal role in education, thereby possibly harming the pluralism of American education. Al Vandenbosch, Chairman of the Illinois Advisory Committee on Nonpublic Schools, told the Committee of his concern that the new department would not give adequate attention to the needs of private education.

February 8: Six members of the Administration testified in support of the Education Department. OMB Director McIntyre reiterated the President's commitment to the establishment of the Department. He suggested that the Senate bill contain: A prohibition against Federal control of education, more flexibility for the Secretary of Education in structuring the new Department, and the transfer of the migrant education program from the Department of Labor. Assistant Secretary for Education Mary Berry supported the Department because it would streamline the bureaucracy and provide a new emphasis on interagency coordination. U.S. Commissioner of Education Ernest Boyer said the new Department would improve administration of education programs, the quality of the staff, and make the bureaucracy more responsive and accountable. National Institute of Education Director, Patricia Albjerg Graham, said a Department of Education would consolidate widely-scattered educational research functions into a single office and under a single assistant secretary, thereby resulting in more efficient and targeted uses of research for use by States and locatities.

WITNESS LIST

February 6, 1979

Panel I

The Reverend Jesse Jackson, President, Operation PUSH (People United To Save Humanity).

Panel II

Henrik Dullea, Assistant Secretary to Governor Hugh Carey for Education and the Arts, representing the National Governors Association and the Education Commission of the States;

Joanne Goldsmith, member, Maryland State Board of Education, representing National Association of State Boards of Education;

Lucille Maurer, Delegate, State of Maryland Assembly, representing the National Conference of State Legislatures;

Linda Albert, President, New Jersey School Boards Association, representing National School Boards Association; and

A. Craig Phillips, North Carolina State Superintendent of Public Instruction, and President, Council of Chief State School Officers.

Panel III

The Honorable Richard Fulton, Mayor, Nashville, Tennessee;

The Honorable Frank Lewis, Chairman, Executive Board, Nebraska State Legislature;

Ralph Steffek, Treasurer, National Association of Administrators of State and Federal Education Programs, acompanied by Betty A. Colden, President, Michigan Association of State and Federal Program Specialists; and

Rex Fortune, Chairman, Committee on Legislation, National Alliance of Black School Educators.

February 7, 1979

Panel I

The Honorable Robert Morgan, U.S. Senator, North Carolina.

Panel II

Frank Bowe, Director, American Coalition of Citizens with Disabilities;

Fred Weintraub, Assistant Executive Director for Governmental Relations, the Council for Exceptional Children; and

Elizabeth H. Anderson, President, National Rehabilitation Association.

Panel III

J. T. Sandefur, President, American Association of Colleges of Teacher Education;

Thomas A. Bartlett, President, Association of American Universities; and

Charles A. Lyons, Jr., Chancellor, Fayetteville (N.C.) State University, and President, National Association for Equal Opportunity in Higher Education.

Panel IV

Monsignor Wilfrid H. Paradis, Secretary for Education, U.S. Catholic Conference.

February 8, 1979

The Honorable James T. McIntyre, Jr., Director, Office of Management and Budget, accompanied by Harrison Wellford, Executive Associate Director for Reorganization and Management, and Patricia Gwaltney, Deputy Associate Director for Human Resources Organization;

The Honorable Mary F. Berry, Assistant Secretary of HEW for Education;

The Honorable Ernest Boyer, U.S. Commissioner of Education; and

Dr. Patricia Albjerg Graham, Director, National Institute of Education.

AREAS OF DISCUSSION

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

The Committee carefully considered the question of whether the Department means Federal interference in or dominance of State and local policymaking. States and their political subdivisions have the constitutional right to determine their own education needs and policies. The bill reinforces this principle.

Amendments introduced last year by Senators Roth and Danforth addressed this concern. These amendments are contained in the present bill and have been further refined. Hearings held by the Committee this year focused particularly on the question of the effect of the establishment of the Department on education decisionmaking at the State and local level and on whether the establishment of the Department would mean more Federal control. Various groups testifying before the Committee specifically directed their comments to this area. Organizations testifying included the National Conference of State Legislatures, the National School Boards Association, the National Governor's Association, the Council of Chief State School Officers, the National Association of State Boards of Education, and the Education Commission of the States.

James McIntyre, Director of the Office of Management and Budget, commented that the Department would not change the Federal government's role in education. There has long been a tradition in the United States for local control of education. S. 210 recognizes this principle and recognizes that the Department's responsibility is to enforce existing laws and administer existing programs more effectively.

The creation of a Department of Education is supported by State and local groups who say they fear more Federal intrusion will be caused by the existing fragmented, uncoordinated, unaccountable, and low-level bureaucracy.

The hearings before the Committee highlighted this view that the establishment of the Department would, in effect, be a check on Federal encroachment. Mr. McIntyre stated:

> * * * with the establishment of such a Department and making the Secretary or the educational programs more accountable, along with the greater visibility * * * there would be greater and public debate about any type of either perceived or proposed changes in (the) Federal role.

Commissioner Boyer commented further:

> My best judgment is that in fact (the Department) will help protect against (encroachment). What I see now are decisions that are going on every day * * * regulations are being written * * * The lack of clarity and structure, the lack of clear and fixed accountability I think lead to the prospect of more entanglements and not less.

S. 210 underlines the unique relationship of the Federal government with States and localities in the area of education. The findings and purposes state clearly the intent of the Department with respect to the responsibilities of governmental entities and public and nonpublic agencies. The bill recognizes the primary responsibility for education has in the past, and must continue in the future, to reside with States, localities, public and nonpublic educational institutions, communities and families. It distinguishes responsibilities in our Federal system by stating the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments. It recognizes that one of the chief purposes of the Department is to supplement and complement the efforts of States and localities and public and nonpublic institutions to improve the quality of education.

Section 103 of the bill specifically addresses the Committee's intention with respect to the establishment of the Department and the role of the Department with respect to State and local administration of education programs and policies. The Committee accepted an amendment introduced by Senator Roth which explicitly states the establishment of the Department "shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments." Section 103 further clarifies the intent of the Congress with respect to establishing the Department to protect the "rights of State, local and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies." Section 103 also ensures that the transfer of any programs to the Department does not require any particular organization of related programs or administrative networks at the state level.

Lucille Maurer, Chair of the Education Committee of the National Conference of State Legislatures, testified before the Committee on the importance for the Department to have a "strong institutional capacity to integrate its activities with education activities at the State and local level . . . it must be structured in a way that will guarantee day-to-day sensitivity to education policy-making . . . NCSL believes that this could be accomplished most effectively by charging the Under Secretary with responsibility for intergovernmental relations." Most State and local organizations agreed with this concept. The Committee responded to this suggestion by placing the responsibilities for the intergovernmental relations of the Department with the Under Secretary. The Committee has directed the Under Secretary to assure the Department carries out its functions in a manner which supplements and complements the education policies, programs and procedures of States and localities. The Under Secretary is also mandated to assure that appropriate officials within the Department consult with State and local education policy-makers concerning differences over education policies, programs and procedures and concerning the impact of the Department's rules and regulations on the States and localities.

S. 210 also includes an Intergovernmental Advisory Council on Education. The Council would act as a check on the Department of Education for the impact of its programs on States and localities.

The Council will advise the Secretary and the President on intergovernmental problems, progress, and concerns regarding education and intergovernmental relations.

Appointed to the Council by the President would be 24 nonpartisan representatives from State and local governments. State and local educational agencies, and private citizens, including citizens, students, and nonpublic institution representatives. The Under Secretary would also be a member.

The effectiveness of most Federal programs depends upon the delivery of the service of those programs at the State or local level where the Federal Government has limited authority. The widely-scattered education programs have caused confusion for State, local, and private agencies with respect to fragmentation and duplication at the Federal level. State agencies must deal with a myriad of agencies at the Federal level which often result in excessive amounts of paperwork requirements. The Council will provide a mechanism for involving those affected by the Department's policies to facilitate intergovernmental coordination.

The Council is not intended to be a buffer between the Secretary of Education and the President or Congress, nor is it expected to be involved in the day-to-day operations of the Department or in the annual budget process. Its role is advisory in helping the Department work toward the attainment of Federal, State, and local educational objectives. Its focus should be upon the long-term health of the intergovernmental system for managing education.

CITIZEN INVOLVEMENT

The Committee intends that citizen participation in the implementation of Federal education programs be a major function of the Department. S. 210 defines as one of the major functions of the Department "monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs."

Rev. Jesse Jackson's testimony before the Committee emphasized the necessity of parent, student and community involvement in the educational process:

> Presently education is too isolated from these elements and the result is obvious and devastating in numerous ways—from increased vandalism to lower academic achievement to the weakening of public financial support for public education * * * the recognition that parent, citizen and student involvement must play a major role and function in a new department for it to be successful and to rebuild the lost confidence in education is of vital importance.

In testimony before the committee last year, Dr. Carl Marburger, director of the National Committee for Citizens in Education, stated the importance of citizen participation for increasing confidence in schools and children's educational abilities. Lack of confidence in public schools is alarming. According to the National Center for Educational Statistics, the percentage of people with "hardly any confidence in people running education" has nearly doubled from 1973 to 1976. A

1976 Gallup survey found that 59 percent feel the quality of education is declining. Studies showing increasing declines in high school graduates' reading skills and SAT scores reinforce the lack of confidence in our schools. Even more alarming is that lack of confidence surfaced in the voting booth, where in 1975, 56 percent of all bond issues before the public were rejected.

Dr. Marburger cited the fact that educational research data demonstrates that when parents participate in school affairs their children do better in school. Also, when children observe their parents having an impact on the school, their self-image becomes more positive. Enhanced self-image has been linked to student achievement in many studies.

In sum, it appears that increased parent, student and citizen participation in the education process not only assists in increasing confidence in the schools, but also has an impact on the decline in student performance.

Already existing with respect to certain education laws are provisions for citizen participation, although there is no coherent policy governing the issue and no consistent enforcement of the provisions.

Student participation was also discussed in hearings before the Committee last year.

Lawrence Zaglaniczny, testifying for the Coalition of Independent College and University Students, and Joel Packer, legislative director of the National Student Lobby/National Student Association Coalition, suggested the need for a unit which would allow students to be consulted on decisions affecting them and to bring student ideas from across the Nation into the decisionmaking process of the Department.

S. 210 provides a mechanism where input can be provided from among citizens, including parents and students. As previously mentioned, one of the major functions of the Department will be to assess parental and public participation in the Department's programs.

The Committee suggests the Secretary establish an Office of Citizen, Parent and Student Concern to perform this public participation function. OMB Director McIntyre's testimony before the Committee supported such an office. This office could be the public's access point to the Department. It would be an effective means for ensuring citizen and parent participation in Federal educational programs and for rebuilding public confidence in education. If such an office were created, it would be responsible for monitoring the enforcement of parent and citizen participation provisions now in law and forming the public of opportunities to participate in educational policy determination. It could identify program authorities and funds that could or should be used to encourage parent involvement, and assess the effectiveness of parent involvement strategies.

Already existing within the Office of the Commissioner of Education are several offices of special concern (for example, offices for minorities, women, and the handicapped). These offices could be consolidated in this Office and benefit from the resulting coordination and increased visibility. A 1977 study by the Education Commission of the States concluded that Hispanics are consistently below their contemporaries in the rest of the Nation in reading, science, mathematics, social studies, and career development. A unit within this Office for Hispanic affairs could ensure that the Hispanic community is involved in matters of interest to it and could monitor and evaluate existing requirements to ensure that Hispanic participation occurs where the law warrants it.

Some of the specific functions this Office could perform would be the following:

(1) Analyze and assess programs administered by the Department to identify current parent, student, or citizen involvement responsibilities, and identify current materials technical assistance that can be used to increase their involvement;

(2) Assess, and report to the Secretary on the implementation of parent, student, or citizen involvement provisions in current law or proposed legislation, and make recommendations concerning the analysis and assessment of this involvement. The Office could be used by the Secretary as a vehicle for coordinating the numerous parent, student, or citizen appointments to departmental boards, commissions, or other panels;

(3) Provide assistance and consultative services to program staff in developing appropriate means for public involvement;

(4) Serve an ombudsman-type function by receiving and channeling for proper attention complaints, grievances, or other input from the public within the Department. This could make the Department aware of the needs of parents, students, and citizens and their involvement in the educational process;

(5) Serve as liaison with education advisory committees, the Federal Interagency Committee on Education, the Intergovernmental Advisory Council on Education, and the Under Secretary who has responsibility for intergovernmental affairs. Thus, stronger institutional community ties could be achieved by an effective mechanism responsible for achieving increased citizen involvement in the Department's programs and activities;

(6) Consult with various entities within the Department, such as the Office for Educational Research and Improvement, which are engaged in research or studies pertaining to parent, student, or citizen involvement in education; and

(7) Engage in the dissemination of valuable information on opportunities for parent, student, and citizen involvement in the Department's administration and policy development processes.

The Committee believes such an Office, if created, should be at a sufficiently high level in the Department to ensure its maximum usefulness and effect. Parent, student, and citizen involvement must cut across all functions of the Department for it to be successful and to build lost confidence in education.

OFFICE FOR CIVIL RIGHTS

A significant responsibility of the Department is to continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities. S. 210 recognizes one of the purposes of the Department is to insure access by every individual to equal educational opportunities. The Department will assume responsibility for effectively carrying out the Nation's civil rights laws in education. Thus, the Secretary of Education will be accountable for the effective administration of existing civil rights laws.

S. 210 provides for the education components of HEW's Office for Civil Rights to be moved into the new Department. The education-related civil rights functions will be concerned with such provisions as title VI of the Civil Rights Act of 1964 (racial and ethnic discrimination); title IX of the Education Amendments of 1972 (sex discrimination); section 504 of the Rehabilitation Act of 1973 (discrimination against the physically and mentally handicapped), Education of all Handicapped Children Act (P.L. 94-142); and Executive Order 11246 (employment discrimination on the basis of race, color, religion, sex, national origin), subject to the restrictions on use of appropriated funds such as is contained in section 420 of the General Education Provisions Act and sections 207, 208, and 209 of the 1979 Labor-HEW Appropriations bill.

The transfer of HEW's education-related civil rights responsibilities provided for under S. 21 is fully consistent with a mandate first expressed in title VI of the Civil Rights Act of 1964 that all Federal agencies assure nondiscrimination in the programs they administer. In order to implement this mandate effectively, organizational arrangements within the new Department will include:

The establishment of an Office for Civil Rights, independent of the Department's programs, whose director will report directly to the Secretary.

The designation of the Director of the office at an executive level IV position, and appointed by the President with Senate confirmation.

A requirement that the Director for Civil Rights be delegated authority by the Secretary for insuring that all civil rights laws are enforced in all program units of the new Department, and a prohibition against any redelegation of this authority to any official not directly responsible to the Director.

A requirement that the Director prepare and transmit directly an independent report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report would include a statement concerning the Director's plans and recommendations to ensure improved enforcement of and continued compliance with the civil rights laws relating to education. The report would also identify problem areas in which more concerted enforcement efforts are needed. The plans and recommendations set forth in the report shall reflect the perceptions and views of the OCR Director and his or her staff.

These proposals will assure adherence to civil rights enforcement within the program units of the Department. Presently, the Director of HEW's Office for Civil Rights performs at a GS-18 level. This position is not Presidentially appointed, nor subject to Senate advice and consent. The increased status assigned to the function by S. 210 will (1) improve the ability to recruit high-level individuals; (2) demonstrate the importance the Federal Government places on civil rights enforcement in education; and (3) assure that the head of civil rights enforcement is accountable to the President and to Congress, as well as to the Secretary.

According to the Office of Management and Budget, the transfer of the education activities of HEW's Office of Civil Rights to the new

Department would involve the transfer of approximately 1,023 OCR staff members. This raised some concern in the Committee that the Department of Health and Human Services might not have adequate staff remaining to carry out its responsibilities concerning civil rights enforcement in health and welfare areas. However, James McIntyre, Director of OMB, told the Committee last year that this transfer would actually enhance civil rights activities in the health and welfare areas: "These areas have been dwarfed by education within HEW; in the Department of Health and Welfare they would clearly be given the attention they deserve." (Letter of June 16, 1978, to Chairman Abraham Ribicoff by James T. McIntyre, Jr., Director, Office of Management and Budget.) In addition, Mr. McIntyre committed himself to review OCR's staffing needs, both within the new Department of Education and within the Department of Health and Human Services, within one year after the Department of Education's establishment in order "to be certain that the Office is capable of carrying out its mandate."

The Committee believes OCR should have adequate staff in the new Department as well as in the Department of Health and Human Services and expects OMB to report its finding of this review to the appropriate congressional committees when it is completed, but not later than 15 months after the Department's creation.

Another concern raised in the Committee's consideration of the OCR transfer had to do with data collection. The Committee recognizes that adequate data are essential to effective civil rights enforcement and does not intend anything in S. 210 to interfere with the enforcement of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law or to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to ensure the complete and uniform enforcement of these acts among the recipients of the Department's programs.

However, one of the Committee's objectives in establishing the new Department is to reduce the paperwork and red tape associated with Federal education programs, particularly as it burdens State, local and tribal governments, public and nonpublic educational institutions. Therefore, the Committee expects OCR data collection efforts to be consistent with the paperwork control role assigned the Federal Education Data Acquisitiion Council in the 1978 Education Amendments (Public Law 95-561). The Committee, mindful of section 400A(a)(6) of the General Education Provisions Act, feels the interests of both paperwork and civil rights enforcement are not incompatible. Additionally, the Committee expects the Director to consult with the Undersecretary to ensure that its data acquisition requests are informed by an intergovernmental perspective.

The Director should specifically identify any problem he or she has in collecting data in OCR's annual report to Congress, and suggest recommendations to solve these problems.

To provide OCR with a greater capacity to analyze the data it collects, the Director should be authorized to enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions.

The establishment of the Office for Civil Rights provides an opportunity to improve current procedures. The active involvement of those involved in ensuring the achievement of equal educational opportunities will be needed. Therefore, these individuals both in and out of government should be consulted to obtain suggestions for possible improvements that could be made during the transition.

The Committee expects the Office of Management and Budget will exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and expects the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

DEPARTMENT ROLE IN ELEMENTARY AND SECONDARY EDUCATION

S. 210 provides for the establishment within the new Department of an Office of Elementary and Secondary Education to be headed by an Assistant Secretary for Elementary and Secondary Education. The Committee estimates the new Office will administer almost $6 billion in education programs and have an estimated staff of 1,000. Since the 1960's, the primary Federal education effort has been to increase access to education and to help move toward equal education opportunity for all Americans. The Office of Elementary and Secondary Education will continue this effort by supplementing and complementing State and local government's efforts to eradicate educational inequity and to ensure economic productivity.

Although the lives of more than 48 million students in elementary and secondary day schools are touched by the programs established by the Elementary and Secondary Education Act, the direction and administration of these programs is currently assigned to a number of officials buried within the U.S. Office of Education structure. There is little apparent effort by these officials to coordinate these programs to most effectively meet the needs of students in their communities and classrooms.

By placing these programs in the new Department under the jurisdiction of an Assistant Secretary for Elementary and Secondary Education, the Committee believes that coordination for better delivery of Federal services to students, schools, and local education agencies can be achieved. A highly visible Assistant Secretary should be accessible and responsive to concerns of local school officials, teachers, parents, and students. An Assistant Secretary can better direct program officers in streamlining delivery and will have authority to institute delivery procedures which are responsive to the needs of local communities. An Assistant Secretary can oversee the total process of administering Federal education programs in such a way that the dollars Congress intends to be expended on actual program operation will go to schools where teaching and learning take place, rather than be squandered on administrative functions in the Federal and State bureaucracies.

DEPARTMENT ROLE IN POSTSECONDARY EDUCATION

American postsecondary education is a large and diverse enterprise enrolling more than 13 million students in some 3,000 colleges and universities, 4 million students in 1,000 community colleges and over 8,000 noncollegiate vocational postsecondary institutions. Higher education alone is almost a $50 billion a year enterprise which employs more than 600,000 instructional and research staff and 1.3 million administrative and support personnel. Of the estimated $22 billion Federal spending on education, approximately $9.6 billion is directed to postsecondary education.

The bill would establish an Office for Postsecondary Education, headed by an Assistant Secondary for Postsecondary Education, to assure that the needs and concerns of this major sector of education are represented at the highest levels of the Department of Education. The Office would have a staff of approximately 1,200 and have program spending authority in the approximate amount of $5.5 billion.

The need for a high-level spokesperson for higher education was discussed during the Committee's hearings. One fear raised by some in the higher education community was that a Department of Education might be dominated by elementary and secondary education interests. However, in terms of dollars expended, higher education and elementary/secondary interests are approximately the same. Both categories are funded near $5.5 billion. Dr. Sidney Marland, in testimony before the Committee stated: "While the higher education programs are fewer in number, they are substantially in parity in terms of dollars with elementary and secondary."

In response to a written question submitted by Senator Ribicoff to six former U.S. Commissioners of Education requesting suggestions for balancing elementary and secondary and higher education interests, the overwhelming response supported the need for an Assistant Secretary or Under Secretary for Postsecondary Education. Support for this position was also given by Robert L. Egbert, Dean, Teachers College, University of Nebraska at Lincoln, on behalf of the American Association of Colleges for Teacher Education, the Dean's Network and Wilbur Cohen, Dean of the School of Education of the University of Michigan.

The Department will become the lead Federal agency in coordinating Federal policies and programs designed to improve postsecondary educational opportunities in the nation. Promoting equal access to postsecondary education should be accomplished primarily by maintaining direct grant and loan assistance programs for qualified and needy students. The Assistant Secretary for Postsecondary Education should also assure that basic educational opportunities grants and loans continue to be available to economically disadvantaged students who attend black colleges and universities or other institutions of their choice.

The Department will also be expected to assist the growth and development of a variety of academic programs and related services offered at our nation's public and private postsecondary institutions. Among the special programs requiring departmental attention and commitments are continuing education programs, lifelong learning library facilities and training programs associated with college instruction and research, counseling and community services, and institutional offerings relating to special services for individuals and groups underrepresented in higher education and certain technical and professional fields.

Characteristics of and changes in postsecondary education

Postsecondary education in this country is exceedingly diverse and extensive. Sectarian and private groups maintain and operate more than one-half of the nation's 3,000 colleges and universities. Institutions of higher education serve many purposes and many different clients. Each of these institutions should be able to choose and pursue its own course. Department officials should guard against carrying out any practices which have the impact of homogenizing or standardizing policies and services developed by State, local, or private higher education officials and their governing boards or of intruding into the areas central to the autonomy of such institutions.

Support for R. & D. at colleges and universities

Researchers and graduate students at colleges and universities are principal participants in the nation's basic research effort. Approximately two-thirds of all Federal R. & D. efforts, or about $3.6 billion (fiscal year 1979 OMB estimate), are obligated to colleges and universities. Federal agencies involved in basic research, such as NSF, NIH, the Departments of Defense and Energy, will continue their funding of the majority of the research dollars flowing to universities. S. 210 states specifically that no other mission-oriented research functions are transferred, other than those specifically provided for by the Act.

Although the majority of the funds for research, evaluation, policy studies, and demonstrations will undoubtedly remain outside the jurisdiction of the Office of Postsecondary Education, the Committee expects this Office to play a major role in assisting the research agenda for postsecondary education issues.

Role of the Assistant Secretary for Postsecondary Education

The Assistant Secretary and the Department itself is expected to be sensitive to the values of pluralism and diversity of higher education. The Assistant Secretary will establish continuing relationships with students, faculty, administrators, trustees, and other leaders to identify issues and problems and to make recommendations for improvements in Federal education programs affecting postsecondary education.

The Federal government is the source of one-third of the funding for higher education. One of the most persistent criticisms of Federal activity in the field of higher education is the overabundance of burdensome regulations. The Assistant Secretary for Postsecondary Education will be able to work with institutions of postsecondary education and with other Federal agencies and Departments in eliminating these burdensome regulations. The Committee foresees the Assistant Secretary for Postsecondary Education as the leading figure in helping postsecondary institutions strengthen and control the direction of their institutions over their own programs and policies.

The bulk of the Department's funds for postsecondary institutions will support the several major programs of student financial assistance, which are expected to be administered by the Office of the Assistant Secretary. Federal financial assistance to undergraduates has become a critical factor determining whether or not students from lower and middle income families attend a postsecondary institution. More than 82 percent of the Federal aid to postsecondary education includes grants and loans to students. Of this amount, 91 percent eventually goes to undergraduate institutions.

This act transfers four additional direct student aid programs to be grouped with approximately one dozen direct assistance programs administered by the Bureau of Student Financial Assistance in USEO. The Assistant Secretary will administer all "need-tested" Federal student assistance programs. "Need-tested" means that financial assistance grants and loans are awarded according to the student's or his or her family's ability to pay the cost of postsecondary instruction, and the price of education at a particular college or university.

The Assistant Secretary should consider the benefits associated with subsequent consolidation and coordination proposals. Effective coordination within this Office will greatly enlarge the capacity for simplifying the application process and increase the Federal ability to minimize the cost of defaulted loans by an improved collection process. Most importantly, a single agency will be able to analyze Federal student loan trends and problems in terms of long-run indebtedness to the student and his or her family and in terms of grants programs directed toward equal education opportunities at the postsecondary levels.

In addition, the Assistant Secretary will be responsible for coordination of Federal programs of financial assistance to students at the undergraduate, graduate, and professional levels. Such coordination is essential to reduce the complexity of information on the various specialized scholarship, fellowship, and loan programs conducted by other Federal agencies, and to provide to the greatest extent possible common conditions and criteria for eligibility, application, award, and administration.

The Committee recognizes the important role community and junior colleges have played in revitalizing and strengthening our American educational system. Today, more than four million students attend approximately 1200 community colleges. Because community colleges constitute a major segment of postsecondary education, the Committee suggests a director for community colleges have direct access to this Assistant Secretary.

OFFICE OF OCCUPATIONAL, ADULT AND COMMUNITY EDUCATION

The creation of the Office of Occupational, Adult and Community Education, headed by an Assistant Secretary, will provide needed vocational, adult, and community education assistance to the State and local programs, which constitute many times the magnitude of Federal efforts in this field. The Office's programs would have a fiscal 1980 authorization of over $781 million and would utilize a staff of approximately 300.

Today, over 15 million American children are involved in vocational education. Youth with more education who have less work experience are found to earn substantially more than their counterparts with less education. Adult literacy goes hand-in-hand with job stability and income continuity. Yet less than 5 percent of adults eligible for basic and secondary education receive serious services.

Because Americans have more leisure time due to advancing technology, education is needed to prepare our citizens for several jobs during their lifetimes. Studies show more than 75 percent of adults in the United States are interested in some form of continuing education. The elderly, and women, especially, seek new educational opportunities.

Schools increasingly are becoming important vehicles for the delivery of services to citizens by using valuable school facilities and costly educational services efficiently with related community services, yet less than 10 percent of the 16,000 American school districts have opened the schools to recreation and community services use. These schools which have opened their doors to the community are involving the people of that community in a total educational program. These schools offer recreation, public health, nutrition education, and other services to citizens of all ages and special services to the handicapped. They are put into round-the-clock service where local communities determine the needs that exist. Thus, community education programs and full use of schools by the community reduce taxpayer costs and promote increased community involvement.

The creation of this Office will provide the necessary administrative structure capable of assisting States and localities in delivering effective education and training and adult community services. The Office will be expected to be involved in perceiving changing trends in education and administering programs which prepare individuals for continuous education throughout their working lifetimes.

At the Federal level, this Office will effect a partnership between education programs with occupational outcomes in the Department of Education and manpower utilization programs with significant training components inthe Department of Labor. While youth education and employment constitute a primary focus of the work of this Office, preparation of adults and older Americans for access to education and work would be a priority mission as well.

At the State and local levels, this Office will provide programmatic assistance in achieving a blend of vocational, adult, and community education programs. This blend, in turn, will help to attract, retain, and serve private sector economic enterprise, to improve the quality of life and to coordinate education and work programs. With its focus on concrete skills and performances, the Office will promote exchanges between the schools and the larger community through provisions of grants to States and localities and by dissemination of the exemplary program currently under development or in operation.

The Office will also serve to promote confidence in and access to the schools by policymakers and the citizens of each community. With declining enrollments, surplus facilities, and strained resources affecting the long-term prospects for effective American education, the mission of this Office will be to chart the most cost-beneficial, community-responsive link between education and occupation, on the one hand, and school and community, on the other.

In light of the creation of this new Office, the existing functions of the Bureau of Occupational and Adult Education would be located within it and the present Bureau would be abolished. Thus, the new Office would administer the programs now being administered by the Bureau of Occupational and Adult Education. These would include programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. The community schools and community education programs presently located in the Bureau of Occupational and Adult Education would be established prominently within the new Office to be concerned with school-community linkages and would administer and coordinate programs authorized or mandated in a wide range of associated legislation.

VOCATIONAL REHABILITATION

S. 210 establishes an Office of Special Education and Rehabilitative Services within the Department. The Office would be headed by an Assistant Secretary for Special Education and Rehabilitative Services, who would be one of the principal officers of the Department, reporting directly to the Secretary.

The bill transfers to the Department HEW's Office of Information and Resources for Handicapped Individuals; the Rehabilitation Services Administration (except the portion which administers the Developmental Disabilities Assistance and Bill of Right Act); the National Institute of Handicapped Research; the Interagency Committee on Handicapped Research; the Helen Keller National Center for Deaf-Blind Youth and Adults; the National Council on the Handicapped; HEW's special institutional relationships with Gallaudet College, the National Technical Institute for the Deaf, and the American Printing House for the Blind; and, the Education Division's Bureau for the education and training of the handicapped.

Specifically transferred to the Office would be the functions of the Bureau for the Education of the Handicapped, the Rehabilitation Act of 1973 (except for the developmental disabilities program), the National Institute of Handicapped Research and the functions under the Randolph-Sheppard Act.

The new Office will not administer vocational rehabilitation services for Social Security disability beneficiaries, vocational rehabilitation services for Supplemental Security Income beneficiaries, or the developmental disability programs. This exception includes the beneficiary rehabilitation program funded through the Social Security Disability Insurance Trust Fund.

Frank G. Bowe, Director of the American Coalition of Citizens with Disabilities, testifying before the Committee for his association as well as the Council for Exceptional Children and the National Rehabilitation Association commented:

> This structure makes eminently good sense to us. It distinguishes clearly between goal-directed programs aimed at enhancing the potential of disabled persons and entitlement programs aimed at protecting the income and medical needs of persons who are dependent upon others for partial or full support.

The legislation provides for the transfer to the Office of the following functions:

Rehabilitation Services Administration (*RSA*)

The basic purpose of the vocational rehabilitation programs which RSA administers is to provide a comprehensive program of rehabilitative services for physically and mentally handicapped persons whose disability substantially impedes employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

The programs areas that are administered by RSA and are being transferred into the new Department include: Basic State grants ($760,472 million), innovation and expansion ($18 million), service projects ($17.328 million), research ($31 million), training ($30.5 million), and the Randolph-Sheppard vending facility program ($2.4 million). The program for deaf-blind services is also transferred ($2.5 million).

The largest program transferred is the basic state grants for rehabilitation services program. The Federal Government provides grants to States to provide the vocational rehabilitation services needed by handicapped individuals to enter into or return to the world of employment. The grants are used to provide the following services: Counseling, referral, placement, vocational and training services, interpreter and reader services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

Bureau of Education for the Handicapped (*BEH*)

BEH is presently located in the Office of Education within the Department of Health, Education, and Welfare. It is the principal agency for administering and carrying out programs and projects relating to the education and training of the handicapped as authorized by the Education of the Handicapped Act, and the Education for All Handicapped Children Act of 1975. Its programs include: State assistance; special population programs; regional vocational, adult, and postsecondary programs; innovation and development; media and resource services; special adult education manpower development; and special studies.

S. 210 has provided for the consolidation of the Rehabilitation Services Administration and the Bureau of Education for the Handicapped within one Office of Special Education and Rehabilitative Services in the Department of Education.

The Committee realized an opportunity to make an organizational change in the existing fragmented programs that can initiate the development of a comprehensive Federal policy for the education of the handicapped.

There are several reasons the Committee believes the vocational rehabilitation programs administered by RSA should be joined with the programs administered by BEH in the Office of Special Education within the Department.

The first reason is that there is a natural relationship between the programs BEH and RSA administers. An examination of the foregoing program descriptions will indicate that both entities have as their common mission improving the ability of handicapped individuals to adapt to society. The Committee believes this relationship should be strengthened and that there should be a smooth transition between the general schooling a handicapped child obtains and the vocational education that same individuals receives when he or she decides what career or vocation to pursue.

The Committee also determined there is a significant overlap in the individuals served by BEH and RSA. Although BEH primarily educates children, a significant portion of its programing responsibilities trains adults who in turn train handicapped people. Programs such as the special education manpower development project illustrate this point. In addition, BEH administers programs which counsel the families of handicapped individuals. The regional vocational, adult, and postsecondary programs further illustrate the various age groups served by the programs BEH administers. On the other hand, RSA does not restrict itself to one age group either. It also trains nonhandicapped individuals of any age who in turn train handicapped individuals, and provides for model preschool programs for the handicapped.

The Committee believes placing vocational rehabilitation programs in the same office with programs concerned with the general education of the handicapped would—whether that general education is achieved through direct training of the handicapped or through the training of individuals to teach the handicapped—provide a continuum of habilitative services for the handicapped from birth through adulthood, as Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, has suggested in a letter to the Committee dated May 12, 1978.

Another reason the Committee favors placing vocational rehabilitation and the programs BEH administers in one office within the Department of Education is because the focus of these programs is educational. These programs emphasize training. Training is directly related to educational concerns. Moreover, their overall goal is to improve the ability of handicapped individuals to adapt to society. The Committee believes this goal is one which the Department of Education will be broad enough to encompass.

Further, it is the Committee's determination the goal of helping to make handicapped individuals become productive, to live with the same independence and dignity of nonhandicapped individuals, is much more compatible with the concerns of education than it is with health and welfare. Handicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of incomes. Health and welfare, on the other hand, as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis of economic status. Thus the Committee believes the Department of Education will better be able to meet the needs of the handicapped as they relate to education.

Another factor the Committee took into consideration in coming to the conclusion the vocational rehabilitation programs should be transferred and joined with the programs administered by BEH is the significant number of States that presently administer their vocational rehabilitation programs from their educational agencies. This illustrates the proven compatibility between vocational rehabilitation and education.

While recognizing this existing compatability, it is not the intention of the Committee to mandate that any State must administer its vocational rehabilitation programs from its education agency. Therefore, the Committee added language to the bill which clearly states that nothing in the Act shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

During its deliberations on this issue the Committee learned of widespread support for the transfer of RSA and its consolidation with BEH in the Department from Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, the Council for Exceptional Children, the National Federation of the Blind, the American Coalition of Citizens with Disabilities (made up of 75 organizations), the National Rehabilitation Association and the State Admnistrators of Vocational Rehabilitation.

Dr. Bowe succinctly summed up support for this transfer:

> First, services for disabled people have suffered greatly from a severe lack of visibility, fragmented and deeply buried as these programs have been. There is every reason to believe the structure proposed by this Committee would make a truly historic breakthrough for disabled Americans, of whom there are currently fully 36 million. . . . Second, educational and rehabilitative services for disabled people have been poorly coordinated on the federal level. Just one week ago, HEW held the first meeting in ten years of the people responsible for coordinating special education, vocational education, and vocational rehabilitation programs for disabled youth and adults. The purpose of the meeting was to attempt to develop similar plans for service delivery within the three streams of service. That this occurred in 1979 speaks for itself.

In conclusion, the Committee believes the natural relationship which exists between the programs administered by RSA and those administered by BEH, and the relationship between both of these entities and the Office of Information and Resources for the Handicapped, merit their consolidation in one office. The Committee further believes the focus of these programs is more compatible with the goals of education than with health and welfare. Therefore, the Committee realized an opportunity to elevate the status, further the goals, and improve the coordination of the programs concerned with educating the handicapped by placing the Office of Information and Resources for the Handicapped, the Rehabilitation Services Administration, and the Bureau of Education for the Handicapped, along with other functions, in one Office of Special Education and Rehabilitative Services.

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS SCHOOLS

The Committee recommends the transfer of the Department of Defense (DOD) overseas Dependents Schools system to the new Department of Education, and believes their inclusion in the Department will allow for the improvement of the education of their students.

As the American role in the world affairs grew after the Second World War, so did the need for providing a quality education for the dependents of military personnel stationed overseas. Today, there are 267 DOD dependents schools scattered across 24 different foreign countries serving approximately 135,000 students. Altogeher, the budget for the Schools is approximately $361 million, and the staff totals nearly 9,700.

Unfortunately, the DOD Schools have never been fully statutorily authorized, until the passage of the Defense Dependents Education Act, Title XIV of the Education Amendments of 1978. Up until now, the DOD Schools' authorization has been contained only in appropriations bills for the duration of their more than 30 years of "temporary" existence—normally less than a paragraph of legislative language. In the past, direction and guidance from the Congress has come in the form of detailed committee reports. The Defense Dependents Education Act takes effect on July 1, 1979.

The Committee believes more attention and oversight is needed for this important school system. The legislation establishes an Office of Education for Overseas Dependents, to be headed by a high-level Administrator who will report to the Secretary of Education. The schools will represent a major responsibility of the Department of Education. If located within the continental United States, the system would rank as the 12th largest among the nation's public school districts. The quality of the schools should improve and prosper in the new environment.

The Committee finds that the primary purpose and goals of the DOD schools are more in line with those of the Department of Education than the Department of Defense. Obviously, the primary mission of the Defense Department is not education. The schools' budgets are considered along with the rest of the DOD budget, where often there is a limited understanding of the intricacies of operating so large a school system. Although the immediate staff of the DOD schools is made up of professional educators, the top officials in DOD normally have little or no expertise in the field of education. The Department of Education, in contrast, will be the Federal agency having direct contact with American education.

The DOD schools do not prepare its students necessarily for any purposes related to the military. The schools are regular American public and elementary public schools, serving children from kindergarten through high school. The expertise and research findings in education will be more readily accessible in the Education, not the Defense Department.

Further, the DOD schools should not, by any means, be isolated from the rest of American education. Locating the schools in the Department of Education would help ease the transition of its students to the public schools in the continental United States. There is considerable movement between the DOD and the American public schools. Terms of duty for most military personnel average about 3 years overseas. It is both necessary and desirable to provide a sense of continuity for students going from one system to another. The Department of Education will be more attuned to the ever-changing trends in American education, and provide the Administrator of the overseas schools valuable assistance in sensing, adjusting, and responding to these trends.

The Committee expects the Secretary of Education will use his or her powers to make available to the schools the vast educational resources in the new Department. The Schools should be allowed to participate in a wide range of education programs not now open to them. The Secretary should make strong efforts to encourage the participation of the DOD Schools in vocational education programs, services for the education of the handicapped and gifted children, library and academic facilities improvement, research functions, and other programs which would benefit the Schools. The Secretary should also work closely with the Administrator of Education for Overseas Dependents and the heads of other departments to provide adequate and quality pre-school education services for children at the Dependents Schools.

The transfer of the DOD schools should be conducted with a minimum of disruption. The legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. The continued efficient operation of the schools is very important, and will require a careful analysis before the transfer plan is actually designed and executed. During the transition period, the Committee is directing the Secretary of Education and the Secretary of Defense to work closely and harmoniously to assure a smooth transfer of the schools and avoid any disruption to or deterioration of the education programs conducted in the schools. Section 505(a) insures the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer.

The Committee intends that all benefits presently enjoyed by personnel of the overseas schools be unaffected and retained through the transfer of the schools to the Department of Education. Section 401(g) of the legislation specifically provides that the U.S. government shall continue to classify overseas personnel as the civilian component of any status of forces agreements between the U.S. and a foreign country or international organization. The Committee intends that this apply to all agreements giving special treatment or status to personnel of the overseas schools, whether they are defined specifically as the "civilian component" in that agreement or in a similar manner. Further, section 421(a)(2) provides that the overseas personnel shall continue to be treated by the Defense Department as their employees so that they may continue to receive any and all benefits available to them at the present time. The Committee believes these important benefits, such as access to commissaries, exchanges and other military-related facilities, can be continued with no disruption or inconvenience to either the overseas personnel or the Department of Defense.

The Committee believes the reorganization of the DOD schools which is currently underway should continue, and should not be disrupted during the transition period.

Increasing parent and citizen involvement

The Committee is concerned with the disturbing lack of effective and meaningful parent, citizen, and student involvement in the operation and policy-making of the overseas dependents education system.

Final authority for the Dependents Schools—ranking as the 12th largest American public school system—rests with one individual, the Director of the Office of Dependents' Education in DOD. The Committee believes this arrangement runs counter to the American tradition of setting educational policies and programs through boards made up of elected parents, citizens, students, and educators. In the transfer of the Dependents Schools to the Department of Education, the Committee suggests the Secretary of Education take immediate steps to increase participation in the schools by members of the military community and their families, and by professional educators and administrators.

Section 302(c) of the legislation requires the Secretary of Education, in developing a plan for transferring the Dependent Schools to the new department, to also include recommendations for increasing the participation of parents, students, teachers, and administrators in the administration of the schools while retaining links to the military. The Committee recommends the Secretary and the Advisory Council on Dependents Education consider the establishment of a governing board for the Dependents Education System at the federal level, with boards also at the local and base level. The Committee notes there already exists such a framework and structure, but in an advisory capacity only. To advise the school principals at the local level, there exists Local Community School Advisory Councils. From there, District Advisory Councils advise District Superintendents, Regional Advisory Councils (Atlantic, Pacific, and European) advise the Regional Directors, and finally, at the national level, the Advisory Council on Dependents Education will advise the Director of the Dependents Schools. The obvious shortcoming of these councils, however, is that their success depends totally on the receptiveness of the officials being advised. These panels must be given a large measure of authority over educational programs and policies to be effective, in much the same way as school boards on the local, regional, and State levels operate here in the continental United States.

The governing board established for the Dependents Schools should be given total responsibility for setting all policies for the schools. The Administrator of Education for Overseas Dependents provided for in S. 210 would report to such a board, as a school superintendent in the U.S. reports to the local board of education. For the governing board to work properly, a number of details would have to be worked out and thoroughly investigated, such as the location and meeting place for the board, method for selecting board members, authority over local school boards and relationships between the two, and the relationship between the board and the Department of Education. The Committee expects the Secretary and the Advisory Council on Dependents Education, in consultation with overseas parents, students, and teachers, will give careful consideration to such a concept.

To insure the Dependents Schools receive priority attention in the Department of Education, the Committee is directing in the legislation that the Administrator of Education for Overseas Dependents report to the Secretary. This will also increase the accountability of the schools' administration and facilitate actions to increase participation.

The Committee feels the transfer of the DOD schools to the Department of Education will broaden the scope of the Department, improve the quality of the schools, and most importantly, improve the quality of education for students who attend the schools. The Federal government has a clear obligation to provide an education of equal or superior quality for the dependents of military personnel.

SCIENCE EDUCATION

The Department will assume the administration of a number of science education programs presently located within the Science Education Directorate of the National Science Foundation (NSF).

S. 210 insures appropriate placement for the science education programs by transferring them specifically and intact to the Office of Educational Research and Improvement. Within such an organizational structure the science and technology programs would constitute approximately one-fourth of the R. & D. programs categorized and administered by this Office. The Committee expects science education to be both a visible and substantial component in the new Department, as well as a special entity which will complement science and technology initiatives supported by the NSF and other science and research agencies.

Transfer of these programs will enable the Department to take an active role in assisting the improvements of the quality of science teaching in schools and in undergraduate postsecondary institutions, as well as in improving public understanding and science literacy among the general public. The Department will assume primary responsibility, not only for the specific science programs transferred, but for the conduct of studies, surveys, and evaluations relating to the quality of science teaching and learning and improved understanding of science. Dissemination of science curricular materials and teaching practices should become a departmental priority.

A science education unit in the Department is expected to assist in enhancing the quality of school science programs and the quality of teaching unnecessary overlap between education programs supported by NSF and the authorities administered by HEW's Education Division.

The Education Division supports projects worth millions of dollars which deal with science education and curricular development (for example, biomedical education, environmental education, metric education, ESEA and Emergency School Aid science and math projects) and supports research relating to teaching subjects including science, math, and the use of instructional technologies. Thus, apart from the NSF science education programs, the Department of Education will administer hundreds of millions of dollars for science-related and mathematics programs. The substantive quality of science and math curricular research and development programs will be assured by the direct involvement and assistance of scientists and science educators who will serve as staff, reviewers and consultants. These programs, along with those of science education, are expected to give strong impetus to science education in the new Department.

Declines in science achievement over the past decade have required renewed attention. Achievement in science, as measured by various national surveys and standardized tests, has steadily declined. Many science and mathematics teachers admit to having been inadequately trained. According to the recent report from the National Assessment of Education Progress (NAEP), high school "youths continue their downward trend in science despite the ever-growing demands of a technological society."

A strong commitment to science education will necessitate the placement and support for a strong and visible organizational entity in the

Department which concentrates attention and resources on science improvement. This unit will be located within the Office of Educational Research and Improvement and parallel other major efforts which focus on basic and applied research, postsecondary education improvement, and other program units which report directly to the Assistant Secretary for Research and Improvement.

The NSF programs transferred in the legislation represent approximately $58.7 million out of the entire $80 million fiscal year 1979 plan for the Science Education Directorate in NSF and will require the transfer of no more than 90 personnel.

S. 210, as reported, is consistent with the President's proposal for reorganization. Only those programs aimed primarily at students, the general public, and teachers in the elementary and secondary and undergraduate institutions will be transferred to the new Department. The programs which would remain at NSF include those aimed at recruiting and training scientific researchers, programs requiring direct participation of scientists, and those which provide highly technical science information and assistance to citizen groups and to scientists. The programs transferred are the following:

Teacher training.—These programs are primarily designed to assist in improving and updating the quality of experienced elementary and secondary school or teachers at all levels. Since the early 1950's, these workshops and institute-type programs have been extremely popular among teachers, and in 1979 some 18,000 persons will participate.

Student oriented.—These programs are directed at identifying, teaching, and involving (in laboratory and clinical settings) some of the Nation's most talented high school students. In 1979, some 5,000 students will participate in these programs, many of whom will be minorities and females who will receive encouragement to enter scientific fields.

Institutional support.—These programs provide funds for improving institutional facilities and equipment, primarily at 2- and 4-year colleges, including undergraduate colleges which serve blacks and other minority groups.

Science education research and development.—These programs emphasize assistance in developing innovative curricula and technologies and designing science programs for all youths and adults, including those created exclusively for the gifted and talented in preschools, schools, and undergraduate institutions, or in nontraditional settings.

Public understanding of science programs.—Certain programs that are designed to assist in improving the public's understanding of scientific principles and technological content which may be involved in broader public policy and political issues will remain in NSF.

The transfer of the existing science education programs from the NSF to the Department will not have the effect of amending Public Law 81–507, authorizing the creation of the National Science Foundation and the Science Education Directorate. The NSF will continue to assume responsibility for strengthening scientific research and may initiate new scientific programs and projects which relate to personnel and institutional development and public understanding, when they draw upon the scientific expertise of that agency.

Science programs dependent upon a research environment, educational efforts dependent upon the direct involvement and interaction of scientists and science education programs designed for practitioners of science, or for the public requiring scientific and technical information and information translations, should continue to function with the administrative structure of NSF.

The NSF will maintain its primary educational function by continuing its support for fellowships and traineeships closely associated with graduate and postdoctoral research programs. NSF will also retain responsibility for special graduate fellowships and traineeships for students and faculty in minority institutions and for other efforts which provide support for underrepresented individuals, that is, ethnic minorities, women, handicapped persons, who have the desire and potential to enter scientific and research careers, or to enroll in graduate schools, colleges, and universities to pursue scientific careers. The National Science Foundation will also retain its responsibility for sponsoring basic fundamental research that may relate to education and to human growth and development. Studies in cognitive development, linguistics, and those relating to various social science disciplines will continue to be promoted and funded by the appropriate Directorates within the NSF.

Project activities under the science and society program will continue to be administered in the Foundation, with the exception of certain activities relating to public understanding, which will be a shared responsibility among a number of Federal agencies. The science and society program is intended to bring about greater understanding and improvement to the relationship between the scientific and technological communities and to the larger society. Improving the public's understanding of complex science and technological principles and information often requires the direct involvement and participation of top scientific and technical expertise. As a result, the Committee feels the NSF should not be discharged from this set of activities. Much of this effort helps to assure the involvement of the research and academic communities in contemporary debates on public and social policy. This effort provides important assistance to public-interest groups seeking scientific and technical expertise and also examines ethical and value issues in science and technology.

The Committee expects the Secretary to work closely with and draw upon the advanced knowledge and technical expertise in the NSF and in other scientific agencies, institutions, and associations. It should also strive to improve contacts between the scientific and nonscientific communities and between scientists and professional educators. Assurances in these directions will ultimately lead to improved public undertanding of and appreciation for science.

NSF will continue to support basic or fundamental research relating to education and to initiate proposals for research, training, or development projects relating to education when it feels such an activity is in the national interest and within the scope of its mission and agency mandate "to promote the progress of science."

The Committee urges the Secretary to make extensive use of scientific talent among the academic and university communities. Limitations of salary and expense (S.&E.) funds often preclude more direct outside participation in planning, budgeting, and evaluation activities. Nevertheless, the Committee feels strongly that immediate steps and plans need to be developed by the Secretary to assure the direct and continued involvement of the scientific community in the development of general science-related policies, in specific tasks associated with the evaluation of competitive grant and contract applications, and in the monitoring of ongoing science education projects, institutes, and dissemination efforts.

The Secretary should make use of provisions of this Act which govern appointments and compensation with respect to scientific and technical personnel. A major factor for the success and influence of NSF's science education efforts has been attributed to its strong commitment to the steady rotation of scientists from the field into the agency. Continued use of noncompetitive appointments should be based on highly selective skills or knowledge which may not be available in the agency as well as a general desire to have notable and competent science educators functioning within the agency at all times. Technical assistance to other Federal education program managers and project officers and to other interested groups or individuals concerning science education should be a significant departmental function apart from the funding of programs. Transfer of personnel from NSF to the Department should help to build the nucleus of a cadre of expert science educators. An immediate review of staffing requirements for the science education activities should be undertaken.

Finally, the Secretary should also make note of the Committee's concern for the organizational placement of the science programs being transferred. The Committee recommends that a supergrade-level person with a strong science background should directly supervise the science program activities.

HUD COLLEGE HOUSING PROGRAM

The Committee recommends the transfer of the college housing program, presently administered by the Department of Housing and Urban Development (HUD).

The college housing program was created by title IV of the Housing Act of 1950, as amended, to assist higher educational institutions, through long-term Federal loans, in the construction, expansion, or rehabilitation of dormitories, dining halls, student unions, infirmaries, and other campus housing. The program presently operates on a revolving fund, estimated to be aproximately $110 million this year. Interest rates for the loans average about 3 percent. More than $3 billion in loans to publicly operated postsecondary educational institutions are still outstanding. For the private institutions participating in the program, nearly $2 billion are outstanding.

Generally, the Committee believes the transfer of the HUD college housing program would allow for the development of a consolidated assistance program for construction of higher education facilities. There already exists in the Office of Education the higher education facilities loan and insurance fund, the purpose of which falls into line closely with the college housing program.

The Committee further believes it will be important that the present high level of efficiency of operation of the program not be disturbed by the transfer. HUD now uses complex legal agreements and procedures for operating the program, and their transfer should be carried out with a minimum of disruption and burdensome changes. The Committee recommends the Department of Education continue to use the services of the Federal Reserve Bank as the fiscal agent for the Department. Coordination between the Department and the FRB should be close and strong during and after the transition period.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

There is a strong need for effective coordinatin of education programs in the Federal government. The Committee believes a useful tool for the Secretary of Education in achieving this coordination will be the Federal Interagency Committee on Education (FICE).

FICE was first created by an Executive order issued by President Johnson in October 1964, and later revised and updated in another issued by President Nixon in January 1974. In both cases, the FICE was created because:

> Continued close coordination of Federal educational activities will facilitate the resolution of common problems and otherwise promote effective planning and management [education] activities.

Through the creation of the Department of Education, the Congress will be taking a significant step toward consolidating a widely scattered, badly fragmented Federal education effort. Although the Department will, as provided for in S. 210, consolidate more than 170 education programs, there will still be other education programs in various Federal agencies. Coordination of these programs with those of the Department of Education will be an important function of the Secretary.

One such example would be in the area of international education. Increasing global interdependence hastened by exchange of ideas, people, technology, natural resources, and culture make international education an increasing part of the learning experience of all Americans. The establishment of FICE will provide an excellent vehicle for the Secretary of Education, who has primary responsibility for coordinating external activities in education and cultural affairs to propose and coordinate strategies for improving programs in international education.

For higher education, the importance of a strong FICE increases. As Charles Saunders of the American Council on Education told the Committee:

> The higher education community has had more interest in other programs elsewhere in the government than in the [HEW] Education Division. But at the same time, the need to coordinate the relationship across the government still remains very acute.

At the present time, the existing nonstatutory FICE does not function at the Secretarial level. The chairperson of FICE is the Assistant Secretary of Education. Agency representatives to the committee are often not high-ranking officials, which detracts from its effectiveness.

S. 210 elevates and upgrades FICE and gives it new prominence. The legislation mandates the chairperson shall be the Secretary of Education, thereby giving the committee Cabinet-level leadership.

The bill names some of the key Federal agencies which must designate representatives to FICE. In addition, the Secretary can appoint other members to serve on FICE or to participate in its meetings. Other participants or members might include ACTION, International Communication Agency, and the Smithsonian Institution. The language stipulates that these individuals must be from high-ranking, policy-level positions. The Committee believes this is crucial, as these members will be in a position to better implement FICE's recommendations in their specific agencies.

The legislation provides statutorily for FICE. The Committee which is charged with studying the Federal government's operation and structure with an eye towards efficiency, believes coordination will be one of the single most important tasks of the Secretary of Education. A job this important should not be left tc Executive order authority, for priorities and needs change with the coming and going of different administrations. With S. 210, coordination of Federal education programs becomes a congressionally mandated priority and function.

The conduct of various studies, surveys, and evaluations relating to the overall impact and influence of Federal educational activities are also important initiatives for the Secretary to direct. The Committee believes the Secretary should make great use of the FICE in conducting such studies to facilitate interagency cooperation.

RESEARCH AND IMPROVEMENT IN EDUCATION

Patricia Albjerg Graham, Director of the National Institute of Education, in testimony before the Committee commented on the Federal government's unique role to "support sustained, disciplined, basic and applied research into the processes of teaching and learning, the operations of our school system, and the problems of children and adults trying to take advantage of what the schools have to offer."

The Committee has paid particular attention to the need to provide the new Department with a strong base for its research and improvement activities. The bill establishes an Office of Educational Research and Improvement (ERI), headed by an Assistant Secretary for Educational Research and Improvement.

The Department's assistance in the development of new knowledge about the educational process, and encouragement of its use in improving education, will be a major activity of the Department of Education. Both the Administration and organizations representing educational researchers have endorsed the importance of providing for a strong research component within the new Department.

Dr. Mary Berry, in testimony before the Committee stated:

> Perhaps the most overlooked and understated concern in the debate surrounding creation of a Cabinet-level Department of Education is research. One result likely to occur with the enactment of legislation establishing a Department would be the much needed consolidation of the Federal research functions in the Department. Indeed, the establishment of a totally new Office for Educational Research and Improvement will enable the Federal Government to bring

> together a wide range of disparate and overlapping programs. Although research on education has been helpful, it has not yet had as substantial impact on teaching and learning as it should.

The American Educational Research Association stressed that—

> strategic placement and status will allow the Education Research and Improvement unit to more effectively share its knowledge resources throughout the Federal Government, among different levels of education governance, and with the private sector.

In total, an estimated $700 million is spent on statistical analysis, research, development, demonstration, dissemination, and evaluation efforts in the Education Division of the Department of Health, Education, and Welfare, the National Science Foundation Science Education Directorate, and the other programs that would be transferred to the new Department by S. 210.

Support for research and improvement activities are the mechanisms through which the Federal Government can least intrusively and most productively increase the capacities of State and local and private educational agencies, other levels of governments, private organizations, and individuals to improve the quality of American education.

Federal research and improvement activities: An overview

Given the importance of the Federal government's support for research in education, the Committee's attention focused on numerous Federal agencies conducting educational research. The National Institute of Education (NIE) has the mandate to both conduct and coordinate educational research at all levels. The National Science Foundation, particularly through its science education programs, directs large amounts of money toward educational research, development, and improvement of science education. The Fund for the Improvement of Postsecondary Education (FIPSE) supports innovative projects in the area of postsecondary education, and the National Center for Educational Statistics (NCES) collects data, and conducts a wide range of research surveys on all aspects of education. The Office of Education administers the majority of research-related program activities in the Education Division, including operating research programs in vocational and handicapped education programs.

The Committee believes a much more rational organizational structure should be designed for the plethora of Federal efforts to support analysis, investigation, and improvement of our educational system. Moreover, the research and improvement activities of the Federal Government need to be more effective and efficiently managed.

An Office of Educational Research and Improvement (ERI)

S. 210 establishes an Office for Educational Research and Improvement, in order to correct problems with, and build on the strengths of, current research and improvement activities at the Federal level. The Office will be headed by an Assistant Secretary (executive level IV).

In establishing an Office of ERI, the Committee is both certifying the role and elevating the priority of Federal R. & D. activities which are designed to improve education, public understanding, and the capacities of educational institutions at all levels.

Mr. McIntyre, in his statement to the Committee, specified the primary components of the Office:

> The major program components of this Office will be the National Institute of Education, the Fund for the Improvement of Postsecondary Education, the National Center for Education Statistics and certain science education programs from the National Science Foundation. (Feb. 8, 1979.)

Chairman Ribicoff expressed similar intent in his S. 210 introductory statement before the Senate (Congressional Record, Jan. 2, 1979, p. S578). Although not all of these units are transferred explicitly to the Office of ERI, it is intended that they will be the major units administered by the Office.

The new Office will serve as an integrating and coordinating mechanism for supporting the effectiveness of a wide range of research, development, demonstration, dissemination, evaluation, analytical, and other activities facilitating change. The Committee is convinced of the importance of "buffering" the basic and applied research functions of the Office, and suggests that this issue be considered within the context of the creation of the new Office and Assistant Secretary position.

The Committee considered several alternative ways of reorganizing these functions. (Refer to S. Rept. 95–1078 on S. 991 for a discussion of the various options for organization of the Office as well as the advisory and policy councils associated with the entities transferred.)

This Committee expects the Labor and Human Resources Committee to direct its attention to the reorganization of educational research and improvement functions when hearings to extend FIPSE, NIE, science education, and telecommunications program authorizations are held this year as part of the higher education reauthorization process. At that time the possible relationships between the programs transferred by this legislation to the Office for Educational Research and Improvement and the overall mission of the Office can be considered further.

Criteria for assigning research and improvement functions

The bill provides authority for the Secretary to assign and reassign existing programs among units of the new Department including the research and improvement unit. The Committee does not, however, intend that all demonstration, development, and dissemination activities be assigned to the Office for Educational Research and Improvement. Operating program units should retain some capacity for data collection, evaluation, and dissemination of exemplary programs. Indeed, their present capabilities to carry out these functions should be strengthened.

The Committee expects the Secretary and Assistant Secretary to work with appropriate authorizing committees and subcommittees to assure that:

> Peer review and competitive processes guide the allocation of most research funds;
>
> Nearly all of the fiscal resources of the Office are allocated for research and improvement efforts conducted by qualified indi-

viduals and organizations outside of the Federal Government (through grants, contracts, and cooperative agreements);

A sufficient number of career and short-term scientific, professional, and technical personnel are recruited by the excepted service authorities in order to facilitate flexibilty and attract the best qualified persons;

Sufficient emphasis is placed on developing ways to improve the dissemination of the results of research and improvement activities; and

Reports and statements based on the research efforts funded by the Office are reported without delay.

The organizational structure of the Office of ERI

The Office of Educational Research and Improvement will not encompass all activities relating to research, development, dissemination, demonstrations, evaluation, and policy analysis. It will, however, encompass a substantial proportion of these activities, particularly those that support the priorities of State, local, and private educational agencies and other organizations and individuals concerned with learning more about and improving the quality of American education.

Among the existing organizational units or functions that are specifically assigned or that might be included within the Office are:

All elements of science education programs transferred to the Department from the National Science Foundation. (Assigned.)

The National Institute of Education.

The Fund for the Improvement of Postsecondary Education. (Assigned.)

The nonbroadcast telecommunications programs transferred by this bill from the Office of the Secretary of HEW to the Department. (Assigned.)

Those activities of NCES that involve longitudinal research or analysis on the condition and future of American education.

A capacity for policy-related research and evaluation studies assigned to the Office by the Congress or the Secretary.

Some existing demonstration and development programs aimed at supporting specific changes in curriculum or science-related programs, for example, metric or environmental education.

Telecommunications development activities currently scattered among numerous offices can be brought together in an effort to develop a more coherent Federal policy in this area.

Educational policy analysis studies and associated staff activities, which are also scattered among various offices and levels of the educational bureaucracy, can be brought together for the purpose of associating these tasks with the decisionmaking and planning processes.

The possibilities of improving the linkages and integration of numerous related, and sometimes overlapping program authorities are endless. The Committee expects the Secretary and Assistant Secretary to develop a more cohesive framework for the myriad number of research and improvement programs.

Locating the science education programs now in NSF alongside those science-related programs currently in the Office provides an example of the potential opportunities the Office for ERI provides.

The demonstration and faculty development programs in science education are consistent with and supportive of many of FIPSE's purposes. Science-related education programs currently administered by the Education Division equal in size those being transferred from the Science Education Directorate of the NSF. Improving linkages among this array of scientific programs will enrich the quality of Federal efforts to deal with the serious decline in student achievement in science and related fields.

Concluding comments

The Committee expects the Assistant Secretary for the ERI to support the policies and priorities specified in Sections 404, 405 and 406 of the General Education Provisions Act, which relate to the Fund for the Improvement of Postsecondary Education and the National Institute of Education. Equal commitments are required for continuing R.&D. policies and activities relating to the science education programs being transferred by the bill from NSF. Moreover, in developing the character, structure and practices of the Office and in allocating research and improvement functions throughout the Department, the Committee suggests the Secretary work closely with the Senate Labor and Human Resources Committee and the House Education and Labor Committee.

HEW'S SPECIAL INSTITUTIONS

There are presently four educationally oriented institutions over which the Department of Health, Education, and Welfare maintains budgetary oversight, and for which the Federal government is the major source of revenue. Each of these "special institutions" have as their primary mission the education and assistance of special, handicapped, or disadvantaged constituencies.

The Committee believes the transfer of the current relationship between these Special Institutions and the Federal government to the Department of Education is a logical and wise move. The four institutions include:

> American Printing House for the Blind, located in Louisville, Ky., established by Congress to provide educational materials to elementary and secondary school-age blind students.
>
> National Technical Institute for the Deaf, located in Rochester, N.Y., provides residential, coeducational postsecondary technical education for the deaf.
>
> Gallaudet College, in Washington, an educational institution providing college preparatory, undergraduate and continuing education programs for the deaf. Gallaudet also includes the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School.
>
> Howard University, in Washington, a private nonprofit undergraduate college, graduate school and medical facility emphasizing the training of minorities in technical and professional fields.

The total Federal contribution to these four Special Institutions totaled $178.7 million in fiscal year 1979. The Committee estimates that no more than one or two staff positions are needed for maintaining oversight over the schools.

The Committee is impressed with the successes of these institutions, and recommends their association with the Federal government continue. The missions of these four institutions will follow closely that of the Department of Education.

In the past, all four institutions agree HEW has allowed them maximum flexibility in determining their programs and content of curricula, and in experimenting with new, innovative ideas in their special educational missions. The Committee strongly believes such a high degree of independence and autonomy must continue in the Department of Education.

While the responsibility for oversight of these institutions is statutorily vested in the Office of the Secretary, the Committee suggests the Secretary should consider the possibility of coordinating the functions of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with those of the Office of Special Education and Rehabilitative Services in the new Department. Oversight for Howard University should be coordinated with and linked to the Office of Postsecondary Education.

USDA GRADUATE SCHOOL

The Committee recommends the transfer of the USDA Graduate School to the new Department of Education.

The Graduate School was created in 1921 and has evolved over the years into a first-rate continuing education program benefiting nearly 30,000 employees of the Department of Agriculture, employees of other Federal agencies, and other citizens living in the Washington metropolitan area. The school receives no Federal appropriations, and its staff is not subject to civil service guidelines. The school does not exist for any purpose integrally related to the mission of the USDA. In fact, most of its students are employees of other Federal agencies, or are members of the general public. The Committee believes the central purpose and goal of the Graduate School relates closely to that of the Department of Education. The new Department will be very much concerned with adult and continuing education, which is the primary mission of the Graduate School. Further, the school will develop a more professional image by its association with an education agency, rather than an agricultural agency. The school's ties to USDA have been the source of much confusion over what it really does and what it accomplishes.

The Committee expects the Secretaries of Education and Agriculture to develop a plan and set of procedures, with concurrence of the Director and Board of Trustees of the school, for transferring the administrative offices to the Department of Education. Appropriate facilities should be made available which assure that the Graduate School continues and flourishes as a nonaccrediting and continuing educational institution.

The Graduate School should remain independent and not subject to any statutory or administrative responsibilities established by this Act. In no such manner should the Secretary of Education, or any other official of the Federal government, attempt to exercise any direct influence over the curriculum, program of instruction, administration, or personnel of the Graduate School. That should remain the primary responsibility of the school's board of trustees.

The Committee assumes that the Department and its education programs will require substantial library, classroom, demonstration and audiovisual facilities, and that these facilities can be shared and utilized by the participants, faculty and students of the Graduate School.

The Committee intends that the transfer of the Graduate School will not terminate or lessen educational services provided by the Graduate School to the Department of Agriculture and its employees. Nor should the change in administrative locations alter the special relationships which the Graduate School currently maintains with other Federal agencies, offices and private institutions throughout the Washington area.

Moreover, the Graduate School should continue to be maintained as an independent, nongovernmental institution and, other than indirect services accorded to its administrators and program operations, no federally appropriated funds should be used to support the ongoing operation of the Graduate School functions.

The Graduate School should also retain the prerogative to operate in its present format and under existing policies, or to sever its current physical ties with federal agencies and, thus, become a more independent, self-sufficient and autonomous educational institution. Such alterations of policies influencing or governing future directions of the Graduate School should be totally within the jurisdiction of its director, deputy director and board of trusteees. This transfer should not, in any way, affect the school's by-laws or rules and regulations.

The Committee believes the transfer of the Graduate School to the Department of Education will have a beneficial impact on both institutions. The Committee fully expects the Graduate School will continue to expand and prosper under the new Department.

CONSOLIDATION OF STUDENT AID PROGRAMS

S. 210 consolidates an additional four student loan programs in the Department of Education. This action builds on the work of the Administration towards consolidating most student assistance programs in a single agency to reduce fraud and increase efficiency. Last year, a giant step was taken towards this end through the creation of the Bureau of Student Financial Assistance in the U.S. Office of Education.

The maze of Federal student aid programs has hindered outreach, reduction of paperwork, and attempts to combat fraud. By not being together in one agency, these aid programs have developed different and incoherent funding mechanisms. Their outreach attempts have been very inconsistent—students know about some, but not others. Their eligibility standards are often not equitable or even comparable to similar aid programs. Perhaps worst of all, the scattering of student aid programs encourages substantial rates of default and abuse.

The legislation provides for the transfer of the Health Professions Student Loans programs from HEW, the Nursing Loans and Scholarships program from HEW, and the Law Enforcement Education Program loans from the Department of Justice. The combined budgets of these programs totals $66.7 million for Fiscal Year 1979.

The Committee believes there will be several benefits from this consolidation. It will lead to reduction of paperwork and simplification of application procedures. Administered in a single agency, the loan programs would probably require a simpler, uniform application which could be used for applying for most forms of Federal student assistance. The national student organizations believe this consolidation will also lead to better information distribution to college students and prospective students, not only on these loan programs, but also on their relationship to other forms of Federal student aid, such as grants and work study. High school students are particularly hard-hit by the fragmentation of Federal aid programs, primarily because there have been few coordinated efforts to inform them on a nationwide scale of their availability and existence. Both Congress and the Administration will find it easier to analyze the policy implications of the student aid programs, including such issues as student indebtedness and the effects of loans on career choices, when they are together in one agency.

Further, centralizing student loan programs would allow for the development of a standard need determination formula, so that aid can be better targeted to students who really need it most. And, consolidating the loan programs together has the potential for saving money, through shared administrative staff, and through improved Federal collection efforts, debt deferral, and forgiveness activities by reducing multiple billing agencies to one. The Office of Management and Budget estimates that at least $30 million could be saved by the consolidation.

The Committee finds that the Health Professions, Nursing, and Law Enforcement loans are, first and foremost, student assistance programs. As such, their purpose is related more to the mission of the Department of Education than their present parent agencies. The benefits which will be realized from the transfer are substantial, both in terms of cost savings and operating effectiveness.

MIGRANT EDUCATION

The committee recommends that the $6.5 million migrant education programs of the Department of Labor be transferred to the Department.

The two programs, High School Equivalency Program and the College Assistant Migrant Program, are funded under Title II of the Comprehensive Employment and Training Act. Their principal objectives are to expand educational and employment opportunities for disadvantaged migrants of school age.

The Committee believes the transfer of these two programs to the department will facilitate the administration of a coordinated and better focused Federal effort to increase the level of education for migrants. The HEW Education Division already has significant programs for migrant education, including the special compensatory education program for children of migrant farmworkers until Title I of the Elementary and Secondary Education Act. Other programs such as Upward Bound and Talent Search are very similar in purpose to the College Assistance Migrant program.

In the past, coordination between the Department of Labor and HEW in the field of migrant education has been weak. The Committee believes the transfer will provide many opportunities to obtain needed research, evaluation, and curriculum development support for these migrant education programs—functions which the Labor Department is not in a position to provide.

COMMITTEE ACTION

The Committee on Governmental Affairs held three days of hearings on S. 210 in the 96th Congress—February 6–8, 1979. Altogether, 25 persons testified.

The committee held one mark-up session on March 14, and ordered the bill favorably reported by a vote of nine members present and five members by proxy—*yea*, and one member present—*nay*.

This action in the 96th Congress supplements 10 days of hearings on the concept in the 95th Congress, with testimony from more than 100 witnesses. The Committee held three mark-up sessions in 1978, and reported S. 991 favorably without objection.

In the mark-up session on S. 210 on March 14, 1979, the Committee adopted two amendments. The first, by Senator Roth, added language to Section 103 of the bill, "State and Local Responsibilities for Education," which further clarified the intent of the Committee to protect the rights and prerogatives of States, their local school systems, and other instrumentalities of the States, and public and nonpublic educational institutions in education policy and program decision-making in the establishment of the Department of Education. The second amendment, offered by Senator Danforth, also amended the language of Section 103 to clarify the intent of Congress in protecting local control of education.

ROLLCALL VOTE IN COMMITTEE

The committee's only rollcall vote on S. 210 was for final passage:[1]
Ordered reported: 9 yeas—1 nay.

MARCH 14, 1979

Yeas	*Nays*
Ribicoff	Cohen
Nunn	
Sasser	
Levin	
Percy	
Javits	
Roth	
Danforth	
Durenberger	
(*Proxy*):	
Jackson	
Eagleton	
Chiles	
Glenn	
Pryor	
Stevens	

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[1] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

SECTION-BY-SECTION ANALYSIS OF S. 210

TITLE I—GENERAL PROVISIONS

Section 101. Statement of findings

Section 101 sets forth the findings of the Congress that (1) education is fundamental to the growth and achievement of the Nation; (2) there is a continual need to provide equal access to education for all Americans; (3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems, and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families; (4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments; (5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education; (6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions; (7) Presidential and public consideration of issues relating to education is hindered by the present organizational position of education programs in the executive branch of the Government; (8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and (9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

Section 102. Purposes

Section 102 states the purposes of the Department are to (1) enable education to receive the appropriate emphasis at the Federal level; (2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities; (3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education; (4) encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services; (5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness; (6) (A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic education institutions, community organizations, parents, and students to implement the findings of such research at the local level; and (7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

Section 103(a) (1) states the establishment of the Department of Education shall not increase the authority of the Federal government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States and tribal governments. During mark-up, the Committee expressed its intention to make clear that responsibility for control of education is reserved to the States and their instrumentalities and tribal governments. Thus, the establishment of the Department is not intended to infringe upon the local control of schools nor is it intended to increase the Federal government's authority over education.

Section 103(a)(2) states it is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The Department should also recognize the role these governmental bodies have to determine their own methods for raising revenues.

Section 103(b) states nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs. This subsection recognizes the diversity of state governance structures and shows the Committee's intent that no particular organizational structure is required at the State level because of the transfer of any particular programs to the Department.

Section 104. Definitions

This section defines terms used in the Act. Such terms include Department; Secretary; Under Secretary; Assistant Secretary; Director (Director of the Office for Civil Rights); Administrator (Administrator of the Office of Education for Overseas Dependents); Council (Intergovernmental Advisory Council on Education); Committee (Federal Interagency Committee on Education); and function.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Section 201. Department of Education

Section 201 establishes as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

Section 202 states the Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

The section establishes and Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department, in addition to other duties.

The Under Secretary will be responsible for assuring that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary will also assure that appropriate officials of the Department consult with the appropriate individuals responsible for making policy relating to education in the States and localities concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on these governances. The Committee's intention in assigning the Under Secretary the responsibility for intergovernmental relations is to assure an intergovernmental perspective in the Department's overall activities.

The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code. The section states the Secretary shall designate the order in which other officials of the Department shall act for and perform and functions of the Secretary during the absence or disability of the Secretary and/or Under Secretary.

The section establishes principal officers of the Department: an Assistant Secretary for Special Education and Rehabilitative Services; for Elementary and Secondary Education; for Postsecondary Education; for Occupational, Adult, and Community Education; for Educational Research and Improvement; a Director of the Office for Civil Rights; one additional Assistant Secretary; a General Counsel and an Inspector General. Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule.

The Assistant Secretary appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(11). These functions are concerned with planning, evaluation and coordination administration of the Department and its programs. This Assistant Secretary shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

Subsection (e) provides for an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

Subsection (f) provides for one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

The section states that whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) or (d), the President shall state the particular functions of the Department such individual will exercise upon taking office. This provision is not meant to prohibit the Secretary from reassigning duties and functions or from changing such duties or functions of the officer at a later time if it is necessary to do so for the efficient operation or functioning of the Department.

Section 203. Functions of the Department

Section 203 outlines the functions of the Department. It states the function of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—(1) administration of programs pertaining to elementary and secondary education; (2) administration of programs pertaining to postsecondary education; (3) administration of programs pertaining to occupational, adult, and community education; (4) administration of education grants and other programs for which the Department has responsibility under law; (5) administration of programs relating to special education and rehabilitative services; (6) enforcement of the civil rights laws relating to education; (7) intergovernmental policies and relations, including responsibility for assuring Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs; (8) administration of schools for the overseas dependents of personnel of the Department of Defense; (9) research, dissemination of improved educational practices and the coordinated collection and dissemination of statistics; (10) public information; (11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education; (12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress; (13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and (14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

Section 204. Office for Civil Rights

Section 204 establishes an Office for Civil Rights to be administered by a Director. In light of the importance the Committee attributes to civil rights enforcement in education, the bill provided in section 202 that the Director shall be an executive level IV, appointed by the President with the advice and consent of the Senate, who reports directly to the Secretary. Presently, the Director of Civil Rights is at the level of GS-18. The Secretary shall delegate to the Director all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred to the Secretary (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

The Office for Civil Rights (OCR) shall be the agency within the Department with the authority to exercise sanctions against recipients found violating non-discrimination provisions, and which are funded by any agency of the Department. This responsibility, however, does not diminish the Secretary's responsibility as the chief policy official of the Department, who must be responsible for civil rights compliance and enforcement.

Section 204 provides that the Secretary shall delegate all civil rights compliance and enforcement functions (other than administrative and support functions) to the Office for Civil Rights. This provision was included to make certain that civil rights enforcement responsibilities are not delegated by the Secretary to any official in the Department other than the OCR Director. An adequately staffed Office for Civil Rights, with complete authority from the Secretary, can ensure that all civil rights laws are enforced in all program units of the new Department.

This prohibition against the Secretary delegating authority to enforce civil rights laws to offices other than the OCR is not intended to limit the Secretary's ability to utilize staff who work in other offices both inside or outside the Department for other functions such as pre-award audits or postgrant monitoring. Clearly, such staff might provide specific expertise necessary to help carry out or lend support to civil rights enforcement activities. However, under section 204(a), such staff must be responsible to the OCR Director for those portions of the Secretary's responsibilities for employing sanctions for noncompliance which they exercise.

Section 204(b) requires the Director for Civil Rights each year to prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with civil rights laws relating to education. In addition to this status report, the report shall incdude a statement concerning the OCR's plans and recommendations to ensure improved enforcement of and continued compliance with civil rights laws related to education. The Committee anticipates that this report will identify significant problems of compliance or enforcement which may require oversight by appropriate congressional committees and a description of the specific enforcement activities indicated by OCR during the previous year.

The annual report shall be submitted directly by the Director to the President, the Secretary, and the Congress without clearance or approval by any executive branch official. The Committee views this report as a mechanism to obtain a precise, objective statement of the status of existing and future plans for civil rights enforcement in education. The Director should, however, insofar as feasible, provide a copy of the report to the Secretary sufficiently in advance of its submission to the President and to Congress to provide a reasonable opportunity for the Secretary's comments to be appended to it when transmitted to Congress and the President by the Director.

Section 205. Office of Elementary and Secondary Education

Section 205 establishes in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education. In addition, the Assistant Secretary for Elementary and Secondary Education shall perform such other duties and exercise such powers as the Secretary may prescribe.

Section 206. Office of Postsecondary Education

Section 206 establishes in the Department an Office of Postsecondary Education. The Office shall be administered by the Assistant Secretary for Postsecondary Education. The Office would assure that the needs and concerns of postsecondary institutions are represented and supported. The Office will develop and coordinate policies and programs designed to improve postsecondary educational opportunities.

The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

Section 207. Office of Occupational, Adult, and Community Education

Section 207 establishes an Office of Occupational, Adult, and Community Education, to be administered by an Assistant Secretary for Occupational, Adult, and Community Education. This Office will be responsible for administering those programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. Because of the creation of this new office, the Committee expects the functions and duties previously performed by the Bureau of Occupational and Adult Education to be performed by the new Office.

The Assistant Secretary shall perform such additional duties and exercise such powers as the Secretary may prescribe.

Section 208. Office of Special Education and Rehabilitative Services

This Office will contain the programs administered under the Education of the Handicapped Act, including the programs previously administered by the Bureau for the Education and Training of the Handicapped. In addition, the Office will contain the programs administered by the Rehabilitation Services Administration (RSA), with the exception of vocational rehabilitation services for Social Security disability beneficiaries and vocational rehabilitation services for Supplemental Security Income beneficiaries, or the Developmental Disability programs. The Office will have responsibility for administering the Randolph-Sheppard Act. It will also have transferred to it the functions of the Commissioner of Rehabilitation, the functions of the Director of the National Institute of Handicapped Research of HEW, and the functions of the Office of Information and Resources for the Handicapped. The Assistant Secretary shall also perform additional duties prescribed by the Secretary.

It is the intention of the Committee to create a comprehensive office of consolidated programs for the education of the handicapped. The Committee believes this will initiate the development of an effective policy for the education of the handicapped that will aid handicapped individuals from birth through adulthood.

The creation of this Office will provide the Assistant Secretary an opportunity to efficiently coordinate the programs which were administered by RSA with those which were administered by the Bureau for the Education and Training of the Handicapped.

It is the Committee's expectation that the Assistant Secretary will be a strong advocate for the furtherance of the goal of increasing the ability of handicapped individuals to adapt to society.

Although the Committee strongly believes vocational rehabilitation programs are educationally focused and should be included within the Department of Education at the Federal level, it is not the intention (as stated explicitly in section 103) to change any existing organizational structural requirements for vocational rehabilitation programs at the State level; thus the enactment of this section does not specifically mandate any particular organizational structure of the programs at the State level with respect to the transfer.

Section 209. Office of Education for Overseas Dependents

This section establishes an Office of Education for Overseas Dependent Children, to be administered by the Administrator for Education for Overseas Dependent Children.

The Administrator would carry out the functions transferred to the Secretary from the Department of Defense relating to the Office of Dependents Schools of the Department of Defense and to the operation of schools for dependent children of members of the Armed Forces (other than administrative and support functions).

The Committee expects the Secretary will make available to the Office and the Administrator other resources in the Department for the improvement of the Dependents Schools, including educational research functions, vocational education programs, education of the handicapped services, and other programs for the improvement of academic facilities and personnel.

Section 210. Office of Educational Research and Improvement

Section 210 establishes an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement. The section states that the Secretary shall delegate to this Assistant Secretary all functions relating to the Fund for the Improvement of Postsecondary Education, those functions transferred which relate to Federal grants for telecommunications demonstrations; and the science education functions transferred intact from the National Science Foundation cited by section 303.

In establishing this Office, the Committee recognizes the important role of the Federal Government in assisting research and development activities which are designed to improve education, public understanding, and the capacities of educational institutions. This Office will integrate and coordinate the wide range of research, development, and demonstration programs.

The programs proposed for inclusion in the new Office are included because their overall missions fit into and would complement the new

Office. Although this section does not specifically place the National Institute of Education into this Office, the Committee feels this placement in appropriate. It recommends that the authorizing committees, in conjunction with reauthorizing legislation for the Fund for the Improvement of Postsecondary Education and the National Institute of Education, consider the renewal for these programs within an organization and decision-making framework which will ultimately enhance the research and improvement role for the Department.

Additionally, the Assistant Secretary shall perform such other duties as the Secretary may prescribe.

Section 211. Office of General Counsel

This section establishes an Office of General Counsel, to be administered by the General Counsel.

The General Counsel shall perform necessary duties with respect to legal assistance to the Secretary concerning the programs and policies of the Department and any other additional duties the Secretary feels are appropriate for this Office.

Section 212. Office of Inspector General

Section 212 establishes in the Department an Office of Inspector General. The Inspector General will be appointed in accordance with the provisions of the Inspector General Act of 1978, which is amended by section 212 to add the Inspector General of the Department of Education.

The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Department or the Secretary.

It is the Committee's intent that the Inspector General function be a strong component in the new Department. Since this Department will spend more than $14 billion in Federal moneys, it is the Committee's view that the Inspector General's office actively and thoroughly investigate any abuses or mismanagement of funds.

Section 213. Intergovernmental Advisory Council on Education

Section 213 establishes within the Department an Intergovernmental Advisory Council on Education. The purpose of the Council is to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The functions of the Council are to provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; assess Federal policies and make recommendations to ensure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is also required to submit a report every 2 years to Congress, the President, and the Secretary which reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions, and assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions.

The Council would assist the Secretary in conducting conferences and similar activities to assess the contributions of each level of government to the delivery of equitable, high-quality, and effective education.

If the Council wishes, it may review existing and proposed rules or regulations of the Department in order to determine their impact or potential impact on State, local and tribal governments, public and nonpublic educational institutions. The Committee has specifically left this power discretionary in order to allow the Council to concentrate its efforts in this area on those rules and regulations which it determines to have a significant impact on intergovernmental relations.

Whenever the Council reviews rules or regulations of the Department, it may submit to the Secretary a report containing the results of its review and recommending changes to make the rules or regulations more responsive to the needs and concerns of State, local and tribal governments, public and nonpublic educational institutions. The Secretary must respond in writing to such a report within 30 days of its receipt. If the Council's report concerns proposed rules or regulations, it must be submitted to Secretary within the time period and according to the procedures of the Department governing public comment on such rules or regulations. Moreover, in the case of proposed rules or regulations, the Council's report and the Secretary's written response must be placed on the record of the proceeding.

In giving the Council the power to review rules or regulations of the Department and requiring the Secretary to respond in writing to its recommendations, the Committee's intention is to ensure a continuing dialogue between the Council and the Secretary on the effects of the Department's rules and regulations on State, local and tribal governments, public and nonpublic educational institutions. However, the Committee wants to emphasize that the Department should not limit its consideration of intergovernmental relations in the rulemaking process to after-the-fact comments by the Council on rules or regulations that have already been drafted. The Department should seek to bring an intergovernmental perspective to the rulemaking process from beginning to end by consulting frequently both with the Council and with other officials and groups representing State, local and tribal governments, public and nonpublic educational institutions. Section 202. (b)(1) of S. 210 makes it the specific responsibility of the Undersecretary to bring this perspective to the Department's rulemaking process.

The Council's membership shall be composed of twenty-five members. One of its members shall be the Under Secretary of Education. The President shall appoint eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary); eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments; two members from among institutions; and six members from among the public, including parents, teachers, students, and public interest groups.

In making appointments to the Council, the President shall consult with a broad cross-section of organizations representative of the groups to be chosen to the Council. These groups include but are not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations. Such groups to be consulted with might include the National Governor's Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the National School Boards Association. This consultation is not limited, however, to the organizations specified. It is the Committee's view that the President should also consult with other groups which are representative of the membership selected to the Council. Such organizations would include educational organizations, citizens' public interest groups, including civil rights groups, tribal organizations and student groups. The committee feels this consultation is important in order to ensure the type of broad-based and geographically balanced representation on the Council which is necessary to carry out its stated objectives in bringing the opinions and ideas of those persons involved in the educational process to the attention of the Department.

Not more than thirteen of the members of the Council may be members of the same political party.

Members of the Council would be appointed for a four-year term.

Any member of the Council may serve on the Council beyond the period that the member holds the elective office which served as the basis of his or her appointment.

The Council shall elect one of its members as Chair of the Council.

Any vacancy in the Council shall not affect its power to function.

The section prescribes that the per diem paid to the Council members will be the equivalent of the daily rate for a GS-18.

The Council is authorized to hold hearings and request the attendance and testimony of witnesses, as well as the cooperation and assistance of other Federal departments, agencies, and instrumentalities.

The Council would have the authority to nominate an executive director for the Council, who would be appointed by the Secretary. The executive director would be compensated at the rate provided for a GS-17. The Secretary should seek the approval of the Council in making the choice of the executive director. In addition, the Secretary is required to provide the Council with additional staff, facilities, and assistance as needed to carry out the Council's activities.

Section 214. Federal Interagency Committee on Education

This section establishes the Federal Interagency Committee on Education to conduct studies and make recommendations in order to assure the effective coordination of Federal programs affecting education.

The committee would be composed of at least 17 members. In order to provide more opportunity for greater coordination, the Secretary could expand this number to include other agencies involved in other education-related programs. One member would be the Secretary, who would be the chairman of the committee. Sixteen members would be representatives of the following departments and agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Justice, Department of Health and Welfare, Department of the Interior, Department of Labor, Department of State, National Aeronautics and Space Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Veterans Administration, Commission on Civil Rights, and Environmental Protection Agency.

The committee believes the coordination of Federal education programs outside the Department with those inside will be a critically important function of the Department and the Secretary. One of the basic reasons for the creation of the Department of Education is to improve coordination of education at the Federal level.

FICE should become a viable, active tool of the Secretary in eliminating duplication of effort between the Department and other Federal agencies. The committee fully expects the Secretary will take an active role in the operation and work of FICE. That is the purpose of naming the Secretary of Education as the chairperson. FICE should be an important mechanism for the conduct of comprehensive studies on the Federal role in education, and where the effort can be streamlined.

The committee further expects the agencies designated to be represented on FICE in the legislation will also take active roles in improving coordination and performance of their education programs. The committee has specifically required these agencies to appoint senior officials involved in policymaking functions to represent them on FICE. FICE will be effective only as long as it has as members individuals who hold significant policy and decisionmaking authority.

Although the bill requires FICE to meet at least twice each year, the committee expects the Secretary will utilize FICE more often, especially in the first 3 years of the life of the new Department, when relationships among the many Federal agencies involved in education are developing and becoming formalized.

This section also mandates FICE to conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. FICE is required to report its findings to Congress within 2 years. The Committee intends that FICE devote much attention to and conduct an extensive investigation of the relationship between vocational education programs in the Department with other vocational-oriented programs in the Department of Labor. The Committee has been made aware of lack of coordination and duplication of effort between the vocational education and training programs of HEW and the Department of Labor. A strong, coordinated vocational education and training effort is important to the economic growth of the nation.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301. Transfers from HEW

Section 301(a) transfers all officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Office of Management and Budget Director are to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of HEW giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of HEW;

(6) the Rehabilitation Services Administration of HEW, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of HEW;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the Handicapped.

Subsection 301(b)(1) transfers to the Secretary all functions of the Department of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of HEW with respect to the following:

(*a*) the Education Division of the Department of Health, Education, and Welfare;

(*b*) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(*c*) any advisory committee in HEW giving advice and making recommendations principally concerning education.

Subsection 301(b)(2) transfers to the Secretary all functions of the Secretary of HEW relating to education which are administered through the Office of the Secretary of HEW.

Subsection 301(b)(3) transfers to the Secretary all functions of the Secretary of HEW or the Department of HEW—

(A) Under—

(*i*) the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(*ii*) the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(*iii*) the Higher Education Act of 1965;

(*iv*) the Emergency Insured Student Loan Act of 1969;

(*v*) the Act of August 30, 1890 (26 Stat. 417);

(*vi*) title II of the Elementary and Secondary Education Act of 1964;

(*vii*) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(*viii*) the International Education Act of 1966;
(*ix*) the National Defense Education Act of 1968;
(*x*) the Education of the Handicapped Act;
(*xi*) the National Commission on Libraries and Information Science Act;
(*xii*) the Vocational Education Act of 1963;
(*xiii*) the Career Education Incentive Act; and
(*xiv*) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council.

Subsection 301(b)(2)(B) transfers part B of title V of the Economic Opportunity Act of 1964.

Subsection 301(b)(2)(C) transfers the functions administered by the Secretary or the Office for Civil Rights for the enforcement of civil rights laws and educational orders relating to the functions transferred elsewhere in the bill.

Subsection 301(b)(2)(D) transfers all laws dealing with the relationship between Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and the Department of HEW.

Through the transfer of these Special Institutions, the Committee intends that the new Department continue to allow these institutions maximum flexibiliy, independence, and autonomy in determining their educational program and system. The Secretary should consider coordinating the oversight of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with the Office of Special Education and Rehabilitative Services. Coordination of oversight of Howard University would be best linked with the Office of Postsecondary Education.

Subsection 301(b)(2)(E) transfers functions under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

Subsection 301(b)(2)(F) transfers functions under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine.

The Committee intends that these student loans be administered together with other student assistance programs (e.g., BEOG program, National Direct Student Loans, work study) in a single agency within the Department. Strong efforts should be made to reduce and simplify paperwork and other requirements, develop uniform need determination policies, and improve audit and collection systems to reduce defaults and fraud.

Subsection 301(b)(3)(G) transfers the functions being administered under the Rehabilitation Act of 1973, except that the provisions of this subdivision are not intended to transfer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disabilities programs. This subsection also transfers the Randolph-Sheppard vending facility program, which is administered by the Commissioner but is not authorized by the Rehabilitation Act of 1973.

Subsection 301(b)(4) transfers to the Secretary all functions of the Commissioner of the Rehabilitation Services Administration of HEW, and the Director of the National Institute of Handicapped Research of HEW under the Rehabilitation Act of 1973.

Subsection 301(b)(5) transfers the functions of the National Institute of Education.

Subsection 301(b)(6) transfers the functions of the Institute of Museum Services.

Subsection 301(b)(7) states nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

In describing the functions of the Department of Education, the Committee has attempted to provide a complete list of existing functions now located in HEW that would appropriately be transferred to the Department. The subsection is not intended as a broad authority permitting transfer, by administrative determination, of additional functions up to now clearly associated with health or welfare programs of the Department.

In addition, it is the Committee's intent that prior experience requirements for employees performing specified functions be maintained as Congress intended. Examples are requirements in section 160(b) of the Vocational Education Act of 1963 (20 U.S.C. 2390(b)) that certain individuals performing vocational education functions have prior experience in the fields of junior and community college education, occupational guidance and counseling, and engineering.

Section 302. Transfers of agencies and functions from the Department of Defense

This section provides for the transfer of the Department of Defense overseas dependents schools. This section also authorizes the operation of the dependents schools, which in the past have been authorized only by appropriation legislation, but after July 1, 1979, will be authorized by the Defense Dependents Education Act of 1978, Title XIV of the Education Amendments of 1978. The Secretary is required to develop a comprehensive plan for effecting the transfer of the schools within 1 year of the date of enactment.

The Committee recognizes the operation of the dependents schools will require careful analysis before a plan of transfer can be designed and executed. During this transition, the Congress expects the Secretary of Defense and the Secretary of Education to work closely to assure a smooth transfer of the schools and to avoid and disruption to the education programs conducted in the schools. In addition, section 505(a) of the bill requires that agreements between the schools and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer of the schools.

The administrative reorganization of the schools which is currently underway should continue, and should not be disrupted during the transitional period.

The section requires that the comprehensive plan for transfer include recommendations for increasing the participation of parents, educators, students, school administrators, and military personnel in the operation and development of the schools. The Committee believes it is important to consider the need for the creation of a board or commission, made up of the aforementioned individuals, to guarantee more input in the development of policy and in the operation of the schools by those involved with the educational process. Such a board would operate at the Federal level, and could have responsibilities similar to that of a State board of education. The Committee expects the Secretary will transmit to Congress his or her recommendations, developed after much study and consultation with all affected parties, for the structure and authority of such a board. These recommendations should be contained with the comprehensive plan for effecting the transfer of the schools.

Section 303. Transfers of functions from the National Science Foundation

Subsection (a) transfers certain programs of the National Science Foundation (NSF) or of the Director of the National Science Foundation relating to science education.

It does not transfer programs with respect to graduate fellowships and traineeships, including those encouraging minorities and women to enter scientific and technical careers, integral to the support of scientific research and development; programs concerned with ethical, value, and science policy issues; or those for communicating science information by scientists to nonscientists. Subsection (a) states no mission-oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act, except as provided for specifically in the Act.

Subsection (b) authorizes the Secretary to conduct the programs transferred by subsection (a). Only certain existing National Science Foundation science education programs are being transferred; NSF will retain the function and the right to continue its activity in appropriate science education programs. The Secretary is mandated to consult with the Director of NSF, as appropriate, when conducting the programs transferred under this section.

Subsection (c), which is related to subsection (b), assures that NSF retains the authority to institute new programs under section 3(a)(1) of the National Science Foundation Act of 1950, even though certain of its existing programs are being transferred to the new Department.

Section 304. Transfers of programs from the Department of Justice

This section transfers the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program from the Department of Justice.

As with those programs transferred under section 301(b)(2)(F), the Committee intends that all student assistance programs be administered in a single agency within the Department. Strong efforts should be made to simplify Federal requirements, develop uniform need requirements, and improve audit and collection systems to reduce defaults and fraud in these programs as well.

Section 305. Transfers of functions from the Department of Housing and Urban Development

This section transfers the administration of college housing loans from the Department of Housing and Urban Development.

Through the transfer, the Committee expects that the present high level of efficiency will be maintained in the administration of the program. The complex legal agreements and procedures used by HUD for the program should not be disrupted by the transfer. The Committee intends that the transfer will not change the existing relationships between HUD and the Federal Reserve Bank, which serves as the fiscal agent for the program. Further, the Committee recommends the Secretary coordinate and administer together the college housing program and the higher education facilities loan and insurance fund in the new Department to facilitate the development of a consolidated assistance program for construction of higher education facilities.

Section 306. Transfers of functions from the Department of Labor

This section transfers all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act. These programs are the High School Equivalency Program and the College Assistance Migrant Program.

Section 307. Transfer of the Advisory Council on Education Statistics

This section transfers personnel, assets, and functions of the Advisory Council on Education Statistics.

Section 308. Effects of transfers

Any function of an officer or agency transferred will include any aspect vested in a subordinate of the officer or in a component of the agency.

TITLE IV: ADMINISTRATIVE PROVISIONS—PART A: PERSONNEL PROVISIONS

Section 401. Officers and employees

Section 401 authorizes the Secretary to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

Subsection (b)(1) states subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act. This is subject to the limitation of the first sentence of section 5108(a) of such title, which places a limit on the maximum number of positions which may at one time be placed in GS-16, 17 and 18 positions and the Senior Executive Service.

Subsection (b)(2) states appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS–16, GS–17, and GS–18. This provision applies if the individual placed in the position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

Subsection (b)(3) states notwithstanding the second sentence of section 3104 of title 5 of the United States Code (which states the Director of the Office of Personnel Management must establish the number of scientific or professional positions), the Secretary may establish within the Office created by section 210 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.

Subsection (b)(4) states the authority of the Secretary to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

Subsection (b)(5) states for purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position the individual occupied on the day before the effective date of this Act.

Subsection (c)(1) states the Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS–16 of the General Schedule under section 5332 of title 5, United States Code.

Subsection (c)(2) states subject to section 3134 of title 5 of the United States Code (concerning limitations on noncareer and limited appointments), but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 (concerning career and limited appointments) of title 5 of the United States Code. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment to that position.

Subsection (d) states section 5108(a) of title 5, United States Code, relating to classification of positions at GS–16, GS–17, and GS–18, is amended by stiking out "10,777" and inserting in lieu thereof "10,840."

Subsection (e) states nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transfered by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

Subsection (f)(1)(A) states the Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), provided such services will not be used to displace Federal employees employed on a full-time, part-time or seasonal basis.

Subsection (f)(1)(B) authorizes the Secretary to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code. The Secretary is also authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers. The subsection states an individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

Subsection (g) provides that where personnel of the Overseas Dependents Schools are currently protected and given special benefits under agreements with host foreign nations, they shall continue to receive such protection after the transfer of the Schools to the Department. The Committee intends that this provision apply to any and all agreements between the U.S. government and a foreign nation or international organization (such as the North Atlantic Treaty Organization) which curently classify overseas personnel for the Schools as the civilian component, or some such similar classification, and which convey special status or benefits on such personnel. The Committee fully intends that all such benefits, such as but not limited to exemptions from local taxation, customs duties, lawsuits by foreign nationals, and other special privileges concerning mail and motor vehicle operation, be maintained and unaffected by the transfer.

Section 402. Experts and consultants

This section allows the Secretary to obtain the services of experts and consultants.

Section 403. Annual authorization of personnel

This section states that notwithstanding any other provision of this Act, Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year for personnel for the Department unless the Department's end strength for that fiscal year has been authorized by law. The Secretary shall prescribe the end strength among the Department's offices and agencies.

Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, report to Congress on the allocation of such personnel among the offices and agencies of the Department. The report shall include explanations and justifications for the allocations of personnel.

In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis. Special employment categories for students and disadvantaged youth, including temporary summer employment, would be excluded.

The section states whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

Subsection (b)(1) states for the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and the number of personnel transferred under authority of this Act, during such fiscal year, as determined by the Director of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 percent of the number so authorized.

The subsection requires the Secretary to prepare and transmit the report on the allocations of personnel in the Department within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

Section 411. Authority of the Secretary

This section provides that where a function is transferred to the Secretary, there are available to the Secretary the same authorities for carrying out the function that were available to the agency or officer from which the function was transferred.

Section 412. Delegation

Section 412 authorizes the Secretary to delegate functions to other officers and employees of the Department and to authorize them to delegate such functions further (unless the act provides otherwise). The delegation of the Secretary's authority to another officer or employee does not relieve the Secretary of ultimate responsibility for the exercise of the function, nor is this section intended to be inconsistent with the requirements for redelegation of functions provided for in section 413.

Section 413. Reorganization

Section 413 contains provisions governing reorganization of offices and functions within the Department.

Subsection (a) generally authorizes the Secretary to allocate or reallocate functions among the officers of the Department and to establish, consolidate, alter, or discontinue organizational entities within the Department that may be necessary or appropriate. This authority is allowed with certain exceptions stated in this section. The reorganization must be consistent with section 202(g) of this act which requires the President, in submitting nominees to executive-level positions established in the bill, to state the particular functions of the Department the individual will exercise upon taking office. This reorganization authority is subject to section 202(g) to ensure that functions required to be performed by a particular officer by this act will continue to be performed by such officer even if the Secretary choose to reorganize the Department.

Except for the procedure provided for by subsection (b), section 413 does not allow the Secretary to allocate or reallocate functions or to establish, consolidate, alter, or discontinue organizational entities within the Department if such entities or functions with respect to such entities are established by statute. The abolition of organizational entities established by this act and the alteration or the delegation of functions under this act to any specific organizational entity is also prohibited.

Subsection (b) provides an exception with respect to the following offices and the functions attached to those offices named: Office of Bilingual Education; Teacher Corps; Community College Unit; National Center for Education Statistics; Office of Consumers' Education; Office of Libraries and Learning Resources; Office of Indian Education; Office of Career Education; Office of Non-Public Education; National Institute of Education; Office of Environmental Education; Institute of Museum Services; and administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

In the case of the offices listed, the Secretary could not alter, consolidate, or discontinue any organizational entity or reallocate any function vested by statute in such an entity unless the Secretary notifies the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor 90 days in advance of such action. The notice must contain a full and complete statement of the action proposed to be taken pursuant to the reorganization and the supportive facts and circumstances justifying such a proposed action.

Subsection (c) provides that on the effective date of the Act, the Education Division of the Department of Health, Education, and Welfare, including the Office of Education, the Office of the Assistant Secretary for Education, the Bureau for the Education and Training of the Handicapped, and the Bureau of Occupational and Adult Education of that Department, shall lapse.

The purpose of this section is to give the Secretary specifically stated flexibility with respect to certain offices, all previously existing within the Department of Health, Education, and Welfare and transferred to the Department of Education. Under normal circumstances, the

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Secretary would be prevented from reorganizing or reallocating functions where Congress has specifically provided that such functions be performed by particular entities created by legislation. The Committee was concerned that any flexibility given to the Secretary pertaining to a reorganization of functions or offices created by statute be subject to review through the legislative process or subject to reorganization plan. However, a limited exception is stated in this section, which provides for certain flexibility on the part of the Secretary with respect to the offices or units named in the section. This limited authority does not extend to the abolition of functions under any circumstances and gives the Secretary some flexibility to reorganize certain functions within the Department due to the fact that a new structure has been established by the bill and that existing functions or units might not be placed appropriately in the context of the new Department, if the Secretary is not provided some flexibility.

Section 414. Reporting relationships

This section gives the Secretary flexibility, consistent with section 413, with regard to reporting relationships with subordinate officers. Subsection (a) provides (subject to the limitations of section 413, but notwithstanding the General Education Provisions Act (20 U.S.C. 1221 et seq.) or any other act) that any officer or employee of the Department whose functions are transferred by the act and who was previously required to report to either the Commissioner of Education or the Assistant Secretary for Education of HEW will report to the Secretary. Subsection (b) authorizes the Secretary to delegate any such reporting requirement to any other officer or employee of the Department.

Section 415. Rules

This section authorizes the Secretary to prescribe rules and regulations in connection with the functions of the Secretary of the Department. The promulgation of rules and regulations will be subject to the requirements of chapter 5 of title 5, United States Code (the Administrative Procedure Act).

Section 416. Contracts

This section allows the Secretary to enter into and perform contracts, grants, leases, cooperative agreements, or other similar transactions to the extent and to the amount provided for in advance under appropriate acts.

Subsection (b) provides that the restricting of contracting and related authority to those funded in advance by appropriations is not intended to apply to existing programs, nor to existing contract authorities under existing law. Laws granting specific contract authority also will continue to apply.

Section 417. Technical advice

This section authorizes the Secretary to provide technical assistance with respect to any program or function of the Secretary or the Department. The Secretary must also provide, upon request, technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

Section 418. Regional and field offices

The Seretary may establish, maintain, alter, or discontinue regional or other field offices.

Section 419. Acquisition and maintenance of property

This section allows the Secretary to acquire and maintain schools and related facilities and accommodations for employees of the Department and their dependents only to the extent the facilities are of a special purpose and nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

Section 420. Facilities at remote locations

This section authorizes the Secretary to provide various services (such as medicine, food and dining facilities) to employees and their dependents stationed at remote locations when these services are not otherwise available.

Section 421. Use of facilities

This section grants the Secretary the power to use the research equipment, services, and facilities of the United States or of any State, Indian tribe, or tribal organization, or foreign government, with its consent.

Subsection (a)(2) provides that personnel of the overseas Dependents Schools shall continue to be classified as employees of the Department of Defense so that they may continue to have access to facilities and benefits provided by DOD. The Committee intends that this apply to any and all benefits which the overseas Schools personnel now receive. Currently, overseas Schools personnel enjoy the use of such facilities as, but not limited to, exchanges, clubs, commissaries, hospitals, and housing. In a foreign country, these services provided by the military are often the only services available to the School's personnel. The Committee believes it essential that such personnel continue to have access to these facilities and all other benefits presently provided them, and they should not be disrupted in any way during the transfer of the Dependents Schools to the Department.

The Secretary may also permit various entities to use the Department's property for Department purposes.

Section 422. Copyrights and patents

This section authorizes the Secretary to acquire copyrights, patents, licenses, and releases for the Department's use.

Section 423. Gifts and bequests

This section allows the Secretary to use gifts for the purpose of aiding or facilitating the work of the Department.

Section 424. Working capital fund

This section authorizes the Secretary to establish a working capital fund for common administrative services.

Section 425. Funds transfer

When the Secretary is authorized in an appropriations act he or she may transfer funds from one appropriation to another within the Department as long as no appropriation either increases or decreases by more than 5 percent and no transfer results in increasing the appropriation above the amount authorized.

Section 426. Seal of Department

This section provides for the Secretary to approve a design for a seal for the Department.

Section 427. Annual report

Section 427 requires the Secretary, as soon as practicable after the end of each fiscal year, to prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. The report will include a statement of the goals, priorities, and plans for the Department which are consistent with the findings and purposes of this Act, contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of the goals, priorities, and plans for the Department specified in the findings and purposes; the effective and efficient management of the Department; and the coordination of the function of the Department.

In addition, the Secretary is required to comment in his Annual Report on the progress he has made in reducing excessive and burdensome regulations and unnecessary duplication and fragmentation in Federal education programs. He is also requested to make legislative recommendations to accomplish these goals.

The Senate Committee on Labor and Human Resources is presently conducting a study on the possible effects of a proposed consolidation of certain educational programs. This Committee believes that this study is a proper step in the consideration of measures which look toward the improvement of educational services to our nation's youth and adults. This Committee instructs the Secretary of Education to work closely with the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor to develop proposals which will eliminate unnecessary duplication of programs, paperwork and regulations while maintaining effective and strong efforts to equalize educational opportunities for our citizens and provide needed service for our nation's youth. The Committee believes that it is important that the new Department of Education with its Cabinet-level Secretary stimulate a much needed discussion on the future course of our educational programs.

The report will also analyze objective data concerning changing trends in education and areas of critical concern such as education of the disadvantaged and education in rural and urban areas.

In addition, the report will include budget projections for the 5 fiscal years succeeding the fiscal year for which the report is made, and it will contain a separate section on the recommendations for the fiscal year for which the report is made of the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

Section 448 of the General Education Provisions Act allows the Commissioner to submit within the Commissioner's annual report recommendations for the abolition or combination of advisory committee functions. Since section 427 is a successor to the Commissioner's annual report, the Committee expects the Secretary will submit to the Congress any such recommendations on advisory committees in the annual report.

In preparing and developing this report the Secretary shall, to the maximum extent practicable, consult with members of the public. Within 90 days after the issuance of the report, the Secretary will hold public hearings. In the course of the Secretary's consultation, the Secretary may reimburse any person for expenses reasonably incurred if such person has made or is likely to make a material contribution to the work of the Department or could not otherwise participate fully and effectively in the consultation.

Section 428. Relationship to General Education Provisions Act

Section 428 provides the General Education Provisions Act shall apply only to functions transferred by this act to which the GEPA applies immediately prior to the date of enactment (except where inconsistent with the provisions of this Act).

Section 429. Authorization of appropriations

This section authorizes to be appropriated whatever sums may be necessary to carry out the provisions of this act to enable the Secretary to administer and manage the Department.

TITLE V.—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501. Transfer of allocations of appropriations and personnel

Section 501(a) provides that all personnel, assets, liabilities, contracts, property, records, and unexpended sums connected with the functions transferred by this act are also transferred. Unexpended funds would be used only for the purposes for which they were originally authorized and appropriated.

Subsection (b) provides positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, the personnel occupying those positions on the effective date of this Act, and the personnel authorized to receive compensation in those positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule on the effective date of this act, will be subject to the provisions of section 503 of this Act.

Section 502. Effect on personnel

Subsection (a) provides the permanent positions transferred would not be reduced in grade nor would they be separated or reduced in grade or compensation for at least 1 year (unless stated otherwise in the act).

Subsection (b) further provides that a person who held a position compensated in accordance with the Executive Schedule and who is appointed in the Department to a position having duties comparable to those he or she performed immediately preceding the appointment will be compensated at least at the same rate as he or she was at the previous employment.

Section 503. Agency terminations

If the functions of an agency, commission, other body, or component thereof have been terminated or transferred, the agency, commission, other body, or component would terminate unless otherwise provided in this Act. If this termination occurs, each position and office within the terminated unit would also terminate.

Section 504. Incidental transfers

The Director of the Office of Management and Budget (OMB) is authorized and directed to make any incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended funds, as may be necessary to accomplish the purposes of this act. The Director of OMB will provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for whatever further measures and dispositions as may be necessary to effectuate the purposes of this Act.

This section is not intended to authorize the transfer of any major program authorities not specified in the bill. The provision is designed to cover functions that are necessary to carry out the provisions of the law for the creation of the new Department.

Section 505. Savings provisions

Subsection (a) provides any orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges which are in effect at the time of enactment will continue in effect until their proper termination or modification. The Committee intends that this provision apply also to the interservice agreements between the Office of Dependents Education and the military departments for the support, operation, and maintenance of the overseas Dependents Schools. The Committee expects these agreements will continue without disruption and with full cooperation between the Department and all agencies and offices of the Department of Defense.

Subsection (b) provides any proceeding, or application for a license, permit, certificate, or financial assistance affecting a function which is transferred will continue after the transfer. The Secretary is also authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this section.

This section also provides the transfer of any functions by this Act would not affect any pending suit. If the suit was against an officer in his official capacity, that officer would be replaced as a party to the suit by the appropriate official of the new Department.

Section 506. Separability

This section provides if any provision of this Act, or its application to any person or circumstance is held invalid, neither the remainder of this act nor the application of the provision to other persons or circumstances would be affected.

Section 507. Reference

Any Federal law which refers to a governmental unit the functions of which are transferred to this Department would be deemed to refer to the component of this Department in which this Act vests those functions.

Section 508. Technical amendments

This section makes technical amendments in various acts. For example, the Secretary of Education is added to the list of successors to the Presidency, the Department of Education is added to the list of Executive Departments, and the Executive level officers provided for in this Act are added to title 5 of the United States Code.

Section 509. Amendment to the Comprehensive Employment and Training Act

This section amends section 306 of the Comprehensive Employment and Training Act of 1973 to read "Consultation with the Secretaries of Education and of Health and Welfare." It provides for the Secretary of Labor to consult with the Secretary of Health and Human Services concerning services of a health or human services character.

The Secretary of Labor would consult with the Secretary of Education concerning services of an educational nature under the act. The Secretary of Education would solicit advice from State educational agencies with respect to education services.

The Secretary of Labor would obtain the approval of the Secretary of Education when arranging for the provision of basic education and vocational training directly.

The section also amends the Comprehensive Employment and Training Act of 1973 to allocate an amount equal to not less than 4⅝ percent of the amount allocated pursuant to section 202(a) of the Comprehensive Employment and Training Act.

Section 510. Amendments to the Elementary and Secondary Education Act of 1965

A new sentence is added to the end of section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965. The sentence will read:

> The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.

Section 511. Amendments to the Defense Dependents' Education Act of 1979

This section makes several amendments to the Defense Dependents Education Act of 1978 to conform the Act to the transfer of the Dependents Schools to the Department, and to broaden participation by parents and citizens in the development of educational policy and programs.

The Committee intends that the level of parent, teacher, student, and school administrator participation increase with the transfer of the school system to the Department. The Committee has recommended in this report that the Secretary and the Advisory Council on Dependents Education carefully study the concept of transferring, after the three-year phase-in period, authority of the schools to local, regional, and national-level board of education, much in the same way public education policy is determined by boards of education in the continental United States.

These amendments broaden participation in the local advisory councils and the national-level Advisory Council on Dependents Education to include members of professional organizations, school administrators, representatives of parent organizations, and students.

Because the average term of duty overseas is three years, the Committee believed it would be inappropriate and cumbersome that members of the Advisory Council serve three years, as required by the Defense Dependents Education Act. The term of membership for the advisory council was consequently reduced to two years.

The amendments also increase the responsibilities of the Advisory Council on Dependents Education to include advising the Secretary on the gradual, three-year phase-in and transfer of the Dependents Schools to the Department of Education. The Committee expects this will be an important responsibility of the Council, and that their recommendations will weigh heavily in the Secretary's decisions.

The Committee fully intends that the provisions of this section take effect on the effective date of this Act to establish the Department of Education and that, if necessary, the Secretary consult with the President and the Secretary of Defense on the procedures for reappointing the Advisory Council on Dependents Education in accordance with the provisions of this Act.

Section 512. Redesignation

This section redesignates the Department of Health, Education, and Welfare as the Department of Health and Human Services.

Any reference to Health, Education, and Welfare would refer to Health and Human Services.

Section 513. Transition

The Secretary may utilize the services of personnel of the Executive branch to facilitate the orderly transfer of functions under this act as long as the Secetary receives the consent of the appropriate department or agency head concerned.

TITLE VI. EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601. Effective date

This Act takes effect 180 days after the Secretary first takes office, or earlier if the President so prescribes. However, officers may be nominated and appointed and the Secretary may promulgate regulations any time after the date of enactment.

Subsection (b) allows funds available to any department or agency (or official or component thereof) for which functions are transferred to the Secretary to be used for the compensation and expenses of any officer appointed pursuant to this Act until funds are otherwise available. The use of such funds would be subject to the approval of the Director of the Office of Management and Budget.

Section 602. Interim appointments

If an officer has not entered office by the time this Act is effective, the President may designate an acting officer for 120 days or until the office is filled, whichever comes first.

EVALUATION OF REGULATORY IMPACT

Paragraph 5(a) of Rule XXXIX requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 210 creates a Cabinet-level Department of Education in the Federal government. The bill's main purpose is to reorganize the Federal government to improve governmental efficiency, management, and coordination.

The legislation provides for no new regulatory authority. The Committee believes the creation of the Department of Education will not have any new regulatory impact on the provision of Federal education programs and services. All existing rules and regulations of the programs and offices transferred to the new department will also be transferred.

However, the Committee expects the creation of the Department of Education will be a productive step forward in the drive to reduce burdensome Federal rules and regulations. Through the establishment of the department, the Committee expects a new awareness and sensitivity on the part of the Department and the Secretary of Education towards the primary role in education held by States, their local schools systems, and public and nonpublic educational institutions. Burdensome and unreasonable regulations threaten that delicate intergovernmental relationship and partnership. Reduction of needless regulation and paperwork should be one of the highest priorities of the Secretary of Education.

With this in mind, the Committee added last year to the responsibilities of the Intergovernmental Advisory Council on Education the authority to review existing or proposed rules or regulations of the Department for their impact on States and local governments, and public and nonpublic institutions. The Committee believes the Intergovernmental Council could perform an extremely useful and valuable service in conducting its independent review of these regulations.

ESTIMATED COST OF THE LEGISLATION

Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of S.210.

Based on this review, the Director of the CBO estimates the cost of the bill will be: $5.177 million in Fiscal Year 1980; $7.451 million in Fiscal Year 1981; $9.931 million in Fiscal Year 1982; $9.164 million in Fiscal Year 1983; and $9.626 million in Fiscal Year 1984.

In removing the "E" from HEW, the Committee has gone to great lengths to minimize the costs and maximize the savings—both for the short and long terms. Combining the more than 170 Federal education programs transferred to the Department in S.210, the total budget of the existing programs will exceed that of five existing Cabinet departments. However, the new Department of Education will have fewer assistant secretaries, fewer executive level positions, fewer supergrade positions, and fewer full-time permanent positions than any other Cabinet department.

Further, the Committee takes particular note of the projections of the Director of the Office of Management and Budget that creating the new Department of Education is expected to result in a savings of more than $100 million. There will be immediate savings—more than enough to offset the costs estimated above the CBO—in the elimination of some 350–450 positions in HEW. Presently, there is a tremendous amount of staff duplication up through the many layers of HEW. Creation of the Education Department wipes out at least four layers and replaces it with one.

The Committee hopes the Congress will continue to keep a watchful eye on any future growth of personnel in the new Department by fully exercising its authority under Section 403, "Annual Authorization of Personnel." This section mandates that Congress shall authorize the end strength of each fiscal year for personnel employed by the Department of Education.

Cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the Federal involvement in the educational process.

ADDITIONAL VIEWS OF MR. SASSER

When S. 210, The Department of Education Organization Act, was introduced in the Senate, I stated that my support for the new department was based primarily on its potential to improve the management of Federal education programs. Toward that end, I would like to draw attention to the need for improvement in the financial management systems which currently exist at the Office of Education generally and, specifically, regarding the deficiencies in unresolved internal agency audit reports, the unacceptable level of outstanding accounts receivable and the poor financial controls of the Student Loan Insurance Fund.

During hearings on S. 210, the Office of Management and Budget, in response to questions I posed about General Accounting Office reports of large numbers of unresolved internal agency audit reports at the Office of Education, stated that there were 1,069 unresolved audits from the Office of Education in March of 1977, questioning tens of millions of dollars. Most were over six months old. The situation had not improved markedly by December of 1978, when there were still 583 unresolved Office of Education audits. The OMB has, however, assured the Senate Governmental Affairs Committee that the agency intends to be directly involved in the development of a more effective audit function for the Department of Education.

The OMB also responded to my questions regarding the Comptroller General's report that more than $4 billion in accounts receivable are now outstanding for the Office of Education. This figure, incidently, equals roughly one-third of the current Office of Education annual budget. The OMB has come to recognize that the current amount of outstanding debt is unacceptable. The OMB has assured the Committee that the Department of Education will develop an improved system tailored specifically to the education loan and grant programs which would have the capability of monitoring the loan accounts more closely and recovering funds more rapidly than is now the case with HEW.

The third area of concern about which I questioned OMB relates to their plans to improve deficiencies identified by the Comptroller General in a series of seven reports over the past ten years in the area of financial controls for the Student Loan Insurance Fund. The OMB indicated that the Office of Education is now looking at recommendations about improving the Student Loan Insurance Fund accounting system which were developed by an Office of Education Task Force.

In general, the OMB has given assurances that in its efforts to deal with the transition of programs to the new department, it will develop more effective financial management systems for the Department of Education than those which now exist at the Office of Education. It is obvious that in the past the financial management of these programs has been inadequate and management has exerted too little control.

I am hopeful that the new department will significantly improve the overall financial management of these programs and that the Committee on Governmental Affairs will hold the appropriate administration officials accountable for the assurances they have given in testimony before the Committee.

JIM SASSER.

ADDITIONAL VIEWS OF MR. STEVENS

Although I am a recent cosponsor of the Department of Education bill, I withheld my cosponsorship until the Committee withdrew the study provision on the possible transfer of Indian Education programs from the Bureau of Indian Affairs to the Department of Education.

I objected to this provision for a number of reasons. First, numerous studies have already been conducted in this area. The General Accounting Office has conducted ten studies in the last three years on the condition of Indian Education with recommendations for improvement. These studies have cost the taxpayers a total of $746,171.

Secondly, the Elementary and Secondary Education Act Amendments which passed Congress late last Session, requires many reforms in the way the Bureau operates its schools. The BIA has not yet had a chance to implement reforms. It is too early to measure their success or failure at the present time.

Finally, the most important reason for not including the study provision in this bill is that the Indians simply do not want it. They have made it clear that they want Indian Education to remain with the BIA. If we had ignored their wishes, we would have been violating that landmark piece of legislation—the Indian Self-Determination Act.

TED STEVENS.

ADDITIONAL VIEWS OF MR. DURENBERGER

I have three concerns related to the establishment of a federal Department of Education.

(1) As the Committee Report notes, the federal presence in education should be "*supportive* (emphasis added), helpful and effective." The federal role is one of assistance, not direction for State and local governments. This Act is a small step towards thorough reform and redirection of federal educational efforts in discharging its responsibility for ensuring equality of educational opportunity for all Americans. Ideally, federal support to education should be on a block grant and/or voucher basis. Unfortunately, the federal department created by this legislation continues to rely on targeted education programs. The Committee on Governmental Affairs does not have control over program content, so we cannot make necessary revisions in the structure of federal educational programs. However, we do have the responsibility to ensure that a new federal department does not interfere in the rights and responsibilities of State ond local governments.

The States have a rich mixture of programs to respond to their citizens' educational needs. A centralized approach to education would be fatal to this diversity. This is, perhaps, a potential threat posed by a cabinet-level Department of Education. However, it is the responsibility of the Congress to limit federal involvement in education. If Congress does not exercise proper oversight, State and local jurisdiction over education will be threatened by the federal government regardless of whether education is in a new department or remains a division of an existing department. The Committee draft does contain strong language to protect rights of States and their local school systems. There is one additional step which should be taken to guarantee State and local educational autonomy. My next point will outline this step.

(2) There is an effective antidote for the proliferation of federal programs and centralized government. The remedy is sunset legislation. The Act to create a new federal Department of education provides an opportunity to enact the most effective, and final, form of regulatory reform, sunset. All too often, we spend our time evaluating requests for expansion of federal programs. We do not review the basic premise of the programs—objectives, need, efficiency, and effectiveness. Despite the best intentions of legislators, programs continue to expand regulations, paperwork and controls. We are faced with the inherent aggrandizement common to any bureaucracy. Sunset is the appropriate foil to bureaucratization.

We should consider sunsetting the Department of Education ten years after the enactment of this Act. Such a provision will require Congress to review the effectiveness of the Department and serve as a reminder to the bureaucracy of their purpose and limits. They will be less willing to erect cumbersome administrative procedures (regulations and paperwork), and they will be hesitant (appropriately so) to interfere with State and local authority.

Congress should also periodically review the programs under the new Department of Education. There are at least two provisions to assist in meeting this responsibility. The first is an amendment to provide for departmental accountability. This embodies the substance of title VI (Government Accountability) of Senator Muskie's Sunset Act of 1979. This would require a biennial management report on the effectiveness of each program in the Department. Programs would be rated as "excellent," "adequate," or "unsatisfactory" along with justification for each rating. Congress would have an index performance for each program. Senator Percy will pursue this proposal as a separate bill before the Governmental Affairs Committee.

The second procedure would provide a sunset mechanism for each program under the Department of Education. There would be two parts. The first would deal with entitlement programs. All entitlements would be removed from the jurisdiction of the Department five years after S. 210 becomes law. In addition, continued entitlements would be subject to removal every succeeding five years. Entitlements are often cited as one area of uncontrollable federal spending. This proposal is a means for control—by requiring periodic review for their necessity.

All programs subject to authorization would also cease to be included in the jurisdiction of the Department five years after enactment of S. 210. This would provide the Committee on Governmental Affairs an opportunity to review the need for maintaining any program under the Department's jurisdiction.

(3) Section 313 of the bill establishes an Intergovernmental Advisory Council on Education. The original language included mention of specific organizations to be consulted when the President is making appointments to the Council. The problem with the language is that it could lead to the exclusion of certain groups not specifically mentioned in the bill during the consultation process. The langauge has been changed to indicate that a "broad cross-section of organizations" will be consulted. This language is preferable to listing specific organizations.

David Durenberger.

MINORITY VIEWS OF MR. COHEN

As Congress attempts to curtail the expansion of our overgrown federal bureaucracy, it faces a predicament not unlike that of Hercules trying to slay the mythical, multi-headed monster, Hydra. Every time that Hercules cut off one of Hydra's heads, two more would spring up in its place.

Our bureaucratic version of the multi-headed behemoth is the Department of Health, Education, and Welfare, which consumes more than one-third of that once vast pastureland known as the federal budget. While HEW's appetite has been expanding, its productivity and efficiency have been declining.

We are told, however, that HEW is not well balanced. Education has not received the funding or the attention given health and welfare. It lacks an informed and concerned spokesman who has the ear of the President. As a result of this neglect, education has become malnourished. I pass over the fact that having a spokesman who has access to the ear of the President at the feeding ground in the Oval Office has not produced a model of efficiency in either our health or welfare programs.

Nevertheless, the committee is asked to grasp the sword of efficiency [illegible]d lop the "E" from HEW and then create a new agency, a new head, a new house, and yes, a new foundation. If we feed "E" properly, attend it carefully and manage it strictly, then ultimately we will have to spend less on its brother and sister, "H" and "W".

If the past is merely prologue, then the future for this new agency, and for the taxpayers who must support it, is not promising.

Few would dispute the contention of proponents of this bill that education programs are lost in the present organizational maze of HEW and that the existing structure has produced severe administrative difficulties. I do not, however, believe that the committee's solution of taking the "E" out of HEW will cure these difficulties. I have found no evidence which suggests that the problems plaguing federal education programs—duplicative and conflicting regulations, burdensome and unnecessary paperwork, and unclear lines of authority—would disappear or even be significantly reduced were a separate Department of Education to be created.

To the contrary, the actions of the present Commissioner of Education, Dr. Ernest Boyer, suggests that many of these difficulties can be solved by streamlining and reorganizing *within* the confines of HEW. For example, Commissioner Boyer has consolidated student loan programs with admirable results, proving that improvements are possible within the HEW structure.

The decision to create a new Department of Education needs to be more carefully considered in light of our commitment to reduce the size of the federal government. It is ironic that President Carter, who campaigned on the pledge to revamp the executive branch by reducing the number of federal agencies from 1,900 to 200, should be supporting legislation to create yet another Cabinet department.

As envisioned by the bill's sponsors, the Department of Education would include more than 150 programs and over 16,000 employees, including a Secretary of Education, an Undersecretary, six Assistant Secretaries, a Director of the Office of Civil Rights, a General Counsel, and an Inspector General. The legislation also creates a new advisory council and provides all of the other trappings and costs that accompany Cabinet status. With a budget in excess of $14 billion, the Department of Education would be larger than five of the present Cabinet departments—State, Interior, Commerce, Justice, and Energy. And based on our experience with the self-perpetuating nature of federal agencies, it is safe to predict that the Department of Education would inevitably grow even larger.

If, as the sponsors of this bill assure us, the state and local governments are to retain responsibility for education in this country, why is this bureaucracy needed? We run the substantial risk of pouring more and more tax dollars into a massive federal bureaucracy that will do nothing to improve the quality of education in this country.

One of the reasons advanced by those who favor creating a separate Department of Education is that greater efficiency would result from the consolidation of education programs now scattered throughout the federal bureaucracy in departments as diverse as Justice and Interior. This legislation, however, does very little to promote consolidation. Almost every non-HEW education program, including school lunch, Indian, and veterans' education programs, would *not* be transferred to the new department, and some disagreement still exists about those responsibilities that would be included under its jurisdiction. While it may indeed be advisable to place all federal education programs under one roof, this legislation does not accomplish that goal. Perhaps proponents hope that if Congress would create a shell now, the President could use his reorganization authority in future years to transfer additional programs with only minimal congressional review or political opposition.

Since this legislation neither consolidates existing education programs nor offers any guarantees that the current administrative problems would be alleviated, I believe that the debate on this bill must center on whether it is desirable to have an increased *national* focus on education. We need to consider what a more centralized focus would imply for educational policy in this country.

Supporters of this legislation argue that creation of a Department of Education would increase the status and visibility of education in the federal government and would recognize it as a fundamental national activity. I have no disagreement with this assertion, but I question whether or not we want to increase the federal role in education.

The diversity in our present education system is one of its strengths. This attribute stems at least in part from our strong tradition of citizen involvement in determining educational policy at the state and local levels. Unlike other countries, we do not have a national "ministry of education," which establishes and controls education for all of the nation's schools. Instead, we have local school boards comprised of the community's elected representatives who make educational decisions for public schools. The federal government's role has been a limited one, particularly in determining policies.

The distinguished sponsors of this legislation have gone to great lengths to try to satisfy the serious concerns that many of us have concerning the possibility of federal encroachment on the rights of state and local governments to control education. Language has been included in the bill restricting the powers of the new Department and stating that the state and local governments would retain primary responsibility for education. I find very little comfort in these words. A Cabinet-level office is, by its very nature, a policymaking office, and the supporters of this bill state that they want to increase the visibility of the federal government's education efforts.

How can we ensure that the federal government would not be involved in setting educational policy and at the same time confer Cabinet status on a Secretary of Education?

Our history clearly demonstrates that whenever the federal government becomes involved in a matter previously handled by the state and local governments, the state and local role inevitably decreases. In recent years, as the federal share of education costs has risen, local school districts have become increasingly ensnared by federal regulations. This trend will only increase with the creation of a separate Department of Education. The temptation to attach strings to federal education monies is always present, and the tendency of federal agencies to promulgate endless regulations that erode or pre-empt the authority of state and local governments is well-documented.

It is interesting to note that the Administration, which so strongly supports this measure for its consolidation objective, opposes a bill before this Committee to replace the three federal agencies which regulate banking with a single consolidated Federal Bank Commission. In his testimony on behalf of the Administration, Deputy Secretary of the Treasury Robert Carswell made the statement that he who controls the purse strings will also ultimately set the standards. This Administration appears to be cognizant of the problem of federal encroachment in the banking field, yet seemingly unaware of it in education.

I am also concerned about the precedent that we would establish in creating a narrowly-based, Cabinet-level department.

Educational organizations, for the most part, support creation of a separate department. But other interests would also like to have Cabinet representation. Small business groups for years have pressed for an upgrading of the status of the Small Business Administration to Cabinet level. Women's organizations would like very much to see the creation of a Department of Women, and environmentalists no doubt would prefer to have environmental issues separated from the Interior Department's other functions and elevated to Cabinet status. Our fishermen also want a Department of Fisheries. All of these interests are very important, and to their supporters, they are deserving of increased federal recognition. But, if our goal is to stem the growth of the bureaucracy, how can we rationalize the creation of a new department in view of the competing and perhaps equally important demands of other groups for similar representation?

Based on the testimony that I have heard and my reading of this legislation, I must conclude that creation of a new Department of Education would not be in the best interests of the American people or of state and local governments.

William S. Cohen.

Changes in Existing Law

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed shown in Roman):

UNITED STATES CODE

TITLE 3—THE PRESIDENT

Chapter 1—Presidential Elections and Vacancies

Section 1. * * *

* * * * * * *

Sec. 19. Vacancy in Offices of Both President and Vice President; Officers Eligible to Act.—

(a)(1) * * *

* * * * * * *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of the President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health [, Education, and Welfare,] *and Human Services*, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of [Energy.] *Energy, Secretary of Education.*

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

Part I—THE AGENCIES GENERALLY

Chapter 1—Organization

§ 101. Executive departments

The Executive departments are:

* * * * * * *

The Department of Health[, Education, and Welfare.] *and Human Services.*

* * * * * * *

The Department of Education.

* * * * * * *

§ 5108. Classification of positions at GS-16, 17, and 18

(a) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of [10,777)] *10,840*) which may at any one time be placed in—

(i) GS-16, 17, and 18; and

(ii) the Senior Executive Service, in accordance with section 3133 of this title.

A position may be placed in GS-16, 17, or 18, only by action of the Director of the Office of Personnel Management. The authority of the Director under this subsection shall be carried out by the President in the case of positions proposed to be placed in GS-16, 17, and 18 in the Federal Bureau of Investigation.

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Part III—EMPLOYEES

Chapter 53—Pay Rates and Systems

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§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(10) Secretary of Health [, Education, and Welfare.] *and Human Services.*

* * * * * * *

(15) Secretary of Education

* * * * * * *

§ 5314. Position at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(6) Under Secretary of Health [, Education and Welfare.] *and Human Services.*

* * * * * * *

(70) Under Secretary of Education.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of Health[, Education and Welfare] *and Human Services.* (5).

* * * * * * *

(41) General Counsel of the Department of Health[, Education and Welfare.] *and Human Services.*

* * * * * * *

(99) Commissioner of Social Security, Department of Health [, Education and Welfare.] *and Human Services.*

* * * * * * *

(128) Assistant Secretaries of Education (9).

(129) Director of the Office for Civil Rights of the Department of Education.

(130) General Counsel of the Department of Education.

(131) Inspector General of the Department of Education.

§ 5316. Positions at level V

* * * * * * *

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5316 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of Health[, Education and Welfare] *and Human Services* for Administration.

* * * * * * *

[(41 Commissioner of Education, Department of Health, Education and Welfare.]

* * * * * * *

(43) Commissioner of Food and Drugs, Department of Health[, Education and Welfare.] *and Human Services.*

* * * * * * *

(52) Commissioioner of Vocational Rehabilitation, Department of Health[, Education and Welfare.] *and Human Services.*

* * * * * * *

(53) Commissioner of Welfare, Department of Health [, Education and Welfare.] *and Human Services.*

(152) Administrator of Education for Overseas Dependent Children of the Department of Education.

(153) Additional Officer, Department of Education.

Public Law 93-112 September 26, 1973

AN ACT To replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":

As Amended by Public Law 95-602, November 6, 1978

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978

Section 1. * * *

* * * * * * *

INTERAGENCY COMMITTEE

Sec. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the [Commissioner, the Commissioner] *Secretary* of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration the Secretary of Transportation, and the Director of the National Sciences Foundation.

* * * * * * *

INTERAGENCY COORDINATING COUNCIL

Sec. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of [Health, Education, and Welfare,] *Education, the Secretary of Health and Human Services*, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.

PUBLIC LAW 93-203, DECEMBER 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

* * * * * * *

CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health [, Education, and Welfare,] *and Human Services* with respect to arrangements for services of a health [, education, or welfare] *or human services* character under this *Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this* Act, and the Secretary of [Health,] Education [and Welfare] shall solicit the advice and comments of State educational agencies with respect to education services. Such *education* services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provisions of basic education and vocational training directly, pursuant to the provisions of this title, [he] *the Secretary of Labor* shall obtain the approval of the Secretary of [Health,] Education [, and Welfare] for such arrangements.

PUBLIC LAW 93-203, DECEMBER 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

As amended by Public Law 95-524, October 27, 1978

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

SECTION 1. * * *

* * * * * * *

SEC. 303(a) * * *

* * * * * * *

(c)(1) In awarding a grant or contract for services administered under this section, the Secretary shall not assign any preferential weighting factor to an application therefor by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section; nor shall the Secretary assign any negative weighting factor to an application by virtue of the fact that an applicant is an instrumentality of State government.

(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

(A) which is—

(i) operated through the use of the facilities of any institution of higher education; and

(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled by—

(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

(ii) generating motivation necessary for success in education beyond secondary school; and

(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

[3](*d*) For the [purpose] *purposes* of carrying out *subsections* (*b*) *and* (*d*) *of* this section. the Secretary shall reserve from funds available for this title an amount equal to not less than [5 percent] *4⅝ per centum* of the amount allocated pursuant to section 202(a).

(e) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs. In implementing this section the Secretary shall determine, in consultation with appropriate State and local educational agencies, that no substantial duplication will exist.

PUBLIC LAW 93-380, AUGUST 21, 1974

AN ACT To extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1974".

* * * * * * *

103(c)(2)(A) * * *

(B) For purposes of this section, the Secretary of Health [, Education and Welfare] *and Human Services* shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.*

PUBLIC LAW 93-422, SEPTEMBER 21, 1974

AN ACT To extend the Drug Abuse Education Act of 1970 for three years

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

SEC. 2(a) * * *

* * * * * * *

SEC. 5. TECHNICAL ASSISTANCE—

The Secretary of *Health and Welfare, the Secretary of Education*, and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department of Health [, Education, and Welfare] *and Human Services, the Department of Education* and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program.

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PUBLIC LAW 95-452, OCTOBER 12, 1978

AN ACT To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, *Education*, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Inspector General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, *the Department of Education*, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

* * * * * * *

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare and Human Services or of the Office of Inspector General of Health, Education, and Welfare and Human Services relating to functions transferred by section 301 of the Department of Education Organization Act;

[(C)] *(D)* of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

[(D)] *(E)* of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

[(E)] (*F*) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

[(F)] (*G*) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

[(G)] (*H*) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

[(H)] (*I*) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

[(I)] (*J*) of the General Services Administration, the offices of that agency referred to as the "Office of Audit" and the "Office of Investigations";

[(J)] (*K*) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

[(K)] (*L*) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

[(L)] (*M*) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

* * * * * * *

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the

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General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

* * * * * * *

PUBLIC LAW 95-561, NOVEMBER 1, 1978

AN ACT To extend and amend expiring elementary and secondary education programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1978".

* * * * * * *

TITLE XIV—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "Defense Dependents' Education Act of 1978".

* * * * * * *

SCHOOL ADVISORY COMMITTEES

SEC. 1410. (a)(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of representatives of [sponsors of students and enrolled in the school and of employees working at the school] *professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school* and, when appropriate, may include a student enrolled in the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of *Education, in consultation with the Secretary of* Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

* * * * * * *

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

SEC. 1411. (a) There is established in the Department of [Defense] *Education* an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

[(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the "Assistant Secretary"), who shall be the chairman of the Council;

[(2) twelve individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

[(3) a representative of each of—

[(A) the Commissioner of Education, Department of Health, [Education, and Welfare,] *and Human services*,

[(B) the Director of the National Institute of Education, Department of Health, [Education, and Welfare,] *and Human Services*,

[(C) the Director of the Educational Directorate of the National Science Foundation,

[(D) the Chairman of the National Endowment for the Arts,

[(E) the Chairman of the National Endowment for the Humanities, and

[(F) the Secretaries of the military departments.

[The Director shall be the Executive Secretary of the Council.]

(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the Council;

(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force; and

(4) a representative of the Secretary of Education and of the Secretary of Defense.

(b) The term of office of each member of the Council appointed under subsection (a)(2) shall be [three] *two* years, except that—

(1) of the members first appointed under such paragraph, [four] *six* shall serve for a term of one year, [four] *and six* shall serve for a term of two years, [and four shall serve for a term of three years] as determined by the [Assistant] Secretary *of Education* at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) shall serve more than two full terms on the Council.

(c) The Council shall meet at least four times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

[(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,]

(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—

(A) the development of an efficient mode of operation of the system in the Department of Education;

(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system.

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of this title, and

(4) perform such other tasks as may be required by the Assistant Secretary.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(e) The Council shall continue in existence until terminated by law.

* * * * * * *

TEXT OF S. 210 AS REPORTED

A BILL to establish a Department of Education

That this Act may be cited as the "Department of Education Organization Act of 1979".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

Sec. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access to education for all Americans;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments;

(5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(7) Presidential and public consideration of issues relating to education is hindered by the present organizational position of education programs in the executive branch of the Government;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

Sec. 102. It is the purpose of this Act to establish a Department of Education in order to—

(1) enable education to receive the appropriate emphasis at the Federal level;

(2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(4) encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services;

(5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(6)(A) provide assistance in the support of basic and applied education research; (B) collect and analyze information on the progress and condition of education in the United Staets; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents and students to implement the findings of such research at the local level and

(7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

Sec. 103. (a)(1) The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(b) Nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs.

DEFINITIONS

Sec. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

Sec. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

Sec. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department. The Under Secretary shall assure that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary shall assure that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States, the local school systems and other instrumentalities of the States, and tribal governments concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) The Under Secretary shall perform such additional duties and exercise such additional powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(3) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of these offices.

(c) (1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) one additional Assistant Secretary;

(H) a General Counsel; and

(I) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) The Assistant Secretary appointed pursuant to subsection (c) (1)(G) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(8) administration of schools for the overseas dependents of personnel of the Department of Defense;

(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(10) public information;

(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(3)(C) *(other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.*

(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(3)(A)(x) (including the functions of the Bureau for the Education and Training of the Handicapped), 301(b)(3)(G), and 301(b)(4), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administra-

tor appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(3)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301(b)(3)(E), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.

(b) The Inspector General Act of 1978 is amended—

(1) by inserting in section 2(1) "the Department of Education," immediately after "Commerce,";

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of

the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and

(4) by inserting in section 11(2) "Education," immediately after "Commerce,".

(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Sec. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of recommendations concerning intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the De-

partment concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regulations. Within thirty days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.

(c)(1) The Council shall be composed of twenty-five members. One member shall be the Under Secretary of Education. The President shall appoint—

(A) eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary);

(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;

(C) two members from among governing boards of public and nonpublic postsecondary institutions; and

(D) six members from among the public, including parents, teachers, students, and public interest groups.

(2) In making appointments under this subsection, the President shall consult with a broad cross-section of organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including but not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations.

(3) Not more than thirteen of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The Council shall elect one of its members as Chair of the Council.

(f) Any vacancy in the Council shall not affect its power to function.

(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including

traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(i) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS–17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their worklife.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policymaking officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;
(ii) Department of Commerce;
(iii) Department of Defense;
(iv) Department of Energy;
(v) Department of Justice;
(vi) Department of Health and Human Services;
(vii) Department of the Interior;
(viii) Department of Labor;
(ix) Department of State;
(x) National Aeronautics and Space Administration;
(xi) National Endowment for the Arts;
(xii) National Endowment for the Humanities;
(xiii) National Science Foundation;
(xiv) Veterans' Administration;
(xv) Commission on Civil Rights; and
(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the need for improved coordinating between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used pri-

marily in connection with any function of the following agencies, offices, or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;

(6) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of the Department of Health, Education, and Welfare;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the Handicapped.

(b)(1) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(C) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare which are administered through the Office of the Secretary of Health, Education, and Welfare and which directly relate to functions transferred by this section.

(3) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under—

(i) the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(iii) the Higher Education Act of 1965;

(iv) the Emergency Insured Student Loan Act of 1969;

(v) the Act of August 30, 1890 (26 Stat. 417);

(vi) title II of the Elementary and Secondary Education Act of 1965;

(vii) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(viii) the International Education Act of 1966;

(ix) the National Defense Education Act of 1958;

(x) the Education of the Handicapped Act;

(xi) the National Commission on Libraries and Information Science Act;

(xii) the Vocational Education Act of 1963;

(xiii) the Career Education Incentive Act; and

(xiv) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council;

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and other sections of this title;

(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(F) under subparts II and III of part B of title VIII of the Public Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VIII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and

for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(4) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

(5) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(6) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(7) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. *(a) (1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).*

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependents of personnel of the Department of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependents' Education Act of 1978).

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF LABOR

SEC. 306. (a) There are transferred to the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 307. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be *employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.*

EFFECT OF TRANSFERS

Sec. 308. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108 (a) of such title, the Secretary may place in grades GS–16, GS–17 and GS–18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 210 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.

(4) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection

shall be deemed to occupy the same position the individual occupied on the day before the effective date of this Act.

(c)(1) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS–16 of the General Schedule under section 5332 of title 5, United States Code.

(2) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment to that position.

(d) Section 5108 (a) of title 5, United States Code, relating to classification of positions at GS–16, GS–17, and GS–18, is amended by striking out "10,777" and inserting in lieu thereof "10,840".

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665(b)), if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

(g) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b)(1) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from

other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

Part B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

Sec. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof exercising such functions immediatey preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

Sec. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

Sec. 413. (a) Subject to the provisions of section 202(q) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the fol-

lowing statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(*A*) *Office of Bilingual Education;*
(*B*) *Teacher Corps;*
(C) *Community College Unit;*
(*D*) *National Center for Education Statistics;*
(*E*) *National Institute of Education;*
(F) *Office of Environmental Education;*
(*G*) *Office of Consumers' Education;*
(*H*) *Office of Libraries and Learning Resources;*
(*I*) *Office of Indian Education;*
(*J*) *Office of Career Education;*
(*K*) *Office of Non-Public Education;*
(L) *Institute of Museum Services; and*
(*M*) *Administrative units for guidance and counseling programs, the veterans' costs of instruction program, and the program for the gifted and talented children.*

(*2*) *The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph* (*1*) *of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.*

(*c*) *On the effective date of this Act, the following entities shall lapse:*

(*1*) *the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;*

(*2*) *the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;*

(*3*) *the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare; and*

(*4*) *the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.*

(*d*) *Whenever the President exercises the authority under section 302*(*c*), *the Office of Dependents' Education of the Department of Defense shall lapse.*

REPORTING RELATIONSHIPS

Sec. 414. (*a*) *Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, and office or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.*

(*b*) *The Secretary is authorized to delegate the reporting requirements established by subsection* (*a*) *to any other officer or employee of the Department.*

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

Sec. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote location as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate deucational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

Sec. 421. (a) (1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government with the consent of and with or without reimbursement to such agency, instrumentality, State political subdivision, Indian tribe or tribal organization, for foreign government.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five

years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available, to the extent provided in an appropriation Act and without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary finds to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such *stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.*

FUNDS TRANSFER

Sec. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

Sec. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

Sec. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department;

(C) the coordination of the functions of the Department; and

(D) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal

education programs, to be accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new opsition.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the *rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.*

INCIDENTAL TRANSFERS

Sec. 504. (a) The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to any function transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

Sec. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinu-

ance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not effect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officers in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which a transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: “The Department of Education.”.

(c) Section 5312 of title 5, United States Codes, is amended by adding at the end thereof the following:

“(15) Secretary of Education.”.

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

“(70) Under Secretary of Education.”.

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

“(128) Assistant Secretaries of Education (6).

“(129) Director of the Office for Civil Rights of the Department of Education.

“(130) General Counsel of the Department of Education.

“(131) Inspector General of the Department of Education.”.

(f)(1) Section 5316 (41) of title 5, United States Code, is repealed.

(2) Section 5316 of such title is amended by adding at the end thereof the following:

“(152) Administrator of Education for Overseas Dependents of the Department of Education.

“(153) Additional Officer, Department of Education.”.

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting “of Health and Welfare, the Secretary of Education,” after “Secretary”; and

(2) by striking out “the Department of Health, Education, and Welfare” and inserting in lieu thereof “the Department of Health and Human Services, the Department of Education,”.

(h)(1) Section 203 of the Rehabilitation Act of 1973 is amended by striking out “Commissioner, the Commissioner” and inserting “Secretary”.

(2) Section 507 of such Act is amended by striking out “Health, Education, and Welfare,” and inserting “Education, the Secretary of Health and Human Services,”.

AMENDMENTS TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec. 509. (a) Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

“CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

“Sec. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges

for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

(b) Section 303(c)(3) of such Act is amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ per centum of the amount allocated pursuant to section 202(a).".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103 (c) (2) (B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secrteary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

AMENDMENTS TO THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

SEC. 511. (a) (1) The last sentence of section 1410 (a) (1) of the Defense Dependents' Education Act of 1978 is amended by striking out "an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school" and inserting "an equal number of representatives of professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school".

(2) The last sentence of section 1410(b) of such Act is amended by striking out "Secretary of Defense" and inserting "Secretary of Education, in consultation with the Secretary of Defense,".

(b)(1) Section 1411(a) of such Act is amended—

(A) by striking out "Defense" in the first sentence and inserting "Education"; and

(B) by striking out paragraphs (1) through (3) and inserting the following:

"(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the council;

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force; and

"(4) a representative of the Secretary of Education and of the Secretary of Defense.".

(2) Section 1411(b) of such Act is amended—

(A) by striking out "three" and inserting "two"; and

(B) by amending paragraph (1) to read as follows:

"(1) of the members first appointed under such paragraph, six shall serve for a term of one year and six shall serve for a term of two years, as determined by the Secretary of Education at the time of their appointment, and".

(c) Section 1411(c)(2) of such Act is amended to read as follows:

"(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—

"(A) the development of an efficient mode of operation of the system in the Department of Education;

"(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

"(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system.".

REDESIGNATION

Sec. 512. (a) Notwithstanding the provisions of section 601, the Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

Sec. 513. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services to such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(*b*) *Funds available to any department or agency* (*or any official or component thereof*), *the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are othewise available.*

INTERIM APPOINTMENTS

Sec. 602. (*a*) *In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.*

(*b*) *Any officer acting in an office in the Department pursuant to the provisions of subsection* (*a*) *shall receive compensation at the rate prescribed for such office under this Act.*

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, THURSDAY, APRIL 5, 1979 *No. 44*

Senate

DEPARTMENT OF EDUCATION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of S. 210, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 210) to establish a Department of Education.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Department of Education Organization Act of 1979".

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(3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments;

(5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(7) Presidential and public consideration of issues relating to education is hindered by

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

Sec. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access to education for all Americans; the present organizational position of education programs in the executive branch of the Government;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

Sec. 102. It is the purpose of this Act to establish a Department of Education in order to—

(1) enable education to receive the appropriate emphasis at the Federal level;

(2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(4) encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services;

(5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(6)(A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level; and

(7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

SEC. 103. (a)(1) The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(b) Nothing in this Act shall be construed to require any particular organization at

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department. The Under Secretary shall assure that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary shall assure that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States, the local school systems and other instrumentalities of the States, and tribal governments concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States, the local school systems and other instrumentalities of the States, and tribal governments

(2) The Under Secretary shall perform such additional duties and exercise such additional powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(3) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special

for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to post-secondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private

the State level of any programs transferred to the Department, including vocational rehabilitation programs.

DEFINITIONS

SEC. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) one additional Assistant Secretary;

(H) a General Counsel; and

(I) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) The Assistant Secretary appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided

nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(8) administration of schools for the overseas dependents of personnel of the Department of Defense;

(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(10) public information;

(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(3)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

search and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(3)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301(b)(3)(E), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.

(b) The Inspector General Act of 1978 is amended—

(1) by inserting in section 2(1) "the Department of Education," immediately after "Commerce,";

mental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assess the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regulations. Within thirty

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(3)(A)(x) (including the functions of the Bureau for the Education and Training of the Handicapped), 301(b)(3)(G), and 301(b)(4), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Re-

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and

(4) by inserting in section 11(2) "Education," immediately after "Commerce,".

(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of recommendations concerning intergovern-

days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.

(c)(1) The Council shall be composed of twenty-five members. One member shall be the Under Secretary of Education. The President shall appoint—

(A) eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary);

(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;

(C) two members from among governing boards of the public and nonpublic postsecondary institutions; and

(D) six members from among the public, including parents, teachers, students, and public interest groups.

(2) In making appointments under this subsection, the President shall consult with a broad cross-section of organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including but not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations.

(3) Not more than thirteen of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The Council shall elect one of its members as Chair of the Council.

(f) Any vacancy in the Council shall not affect its power to function.

(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act as such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance the purpose of aiding students and adults in preparing for and achieving success in their worklife.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policymaking officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;

(6) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of the Department of Health, Education, and Welfare;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the Handicapped.

(b)(1) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary or Education, including the National Center for Education Statistics; and

(C) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare which are

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of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(i) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS-17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of administered through the Office of the Secretary of Health, Education, and Welfare and which directly relate to functions transferred by this section.

(3) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under—

(i) the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(iii) the Higher Education Act of 1965;

(iv) the Emergency Insured Student Loan Act of 1969;

(v) the Act of August 30, 1890 (26 Stat. 417);

(vi) title II of the Elementary and Secondary Education Act of 1965;

(vii) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(viii) the International Education Act of 1966;

(ix) the National Defense Education Act of 1958;

(x) the Education of the Handicapped Act;

(xi) the National Commission on Libraries and Information Science Act;

(xii) the Vocational Education Act of 1963;

(xiii) the Career Education Incentive Act; and

(xiv) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council;

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and

Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(F) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands

ment of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependants' Education Act of 1978).

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

Sec. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships

Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

Sec. 307. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

Sec. 308. The transfer of a function or program from an officer or agency to the Secretary shall inculde the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. officers and employees shall be appointed in Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of sec-in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(4) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

(5) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(6) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(7) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependents of personnel of the Department integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF LABOR

SEC. 306. (a) There are transferred to the Secretary all functions of the Secretary of tion 5108(a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 210 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.

(4) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position the individual occupied on the day before the effective date of this Act.

(c)(1) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or inexcess of the rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(2) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment of that position.

(d) Section 5108(a) of title 5, United States Code, relating to classification of positions at GS-16, GS-17, and GS-18, is amended by striking out "10,777" and inserting in lieu thereof "10,840".

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;
(B) Teacher Corps;
(C) Community College Unit;
(D) National Center for Education Sta-

(f)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

(g) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants of rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b)(1) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

tistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Office of Career Education;

(K) Office of Non-Public Education;

(L) Institute of Museum Services; and

(M) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) the Education Division of the Department of Health, Education, and Welfare, including the Office of Eduation;

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare; and

(4) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(d) Whenever the President exercises the authority under section 302(c), the Office of

Dependents' Education of the Department of Defense shall lapse.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance

(a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available to the extent provided in an appropriation Act and without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary finds to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwthstanding the transfer of functions from the Secretary of Defense to the Secretary under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use in any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department;

(C) the coordination of the functions of the Department; and

(D) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs, to be accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and tions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available unil expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizaions, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for apuropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to any function transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representtaives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

Sec. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to func-

5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

Sec. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

Sec. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission or other body, or component, shall terminate. If an agency commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

(h)(1) Section 203 of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting "Education, the Secretary of Health and Human Services,".

AMENDMENTS TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. (a) Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and the supportive

(b)(1) Section 1411(a) of such Act is amended—

(A) by striking out "Defense" in the first sentence and inserting "Education"; and

(B) by striking out paragraph (1) through (3) and inserting the following:

"(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the Council;

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force; and

"(4) a representative of the Secretary of Education and of the Secretary of Defense.".

(2) Section 1411(b) of such Act is amended—

(A) by striking out "three" and inserting "two"; and

(B) by amending paragraph (1) to read as follows:

"(1) of the members first appointed under such paragraph, six shall serve for a term of one year and six shall serve for a term of two years, as determined by the Secretary of Education at the time of their appointment, and".

(c) Section 1411(c)(2) of such Act is amended to read as follows:

"(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—

services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

(b) Section 303(c)(3) of such Act is amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅘ per centum of the amount allocated pursuant to section 202(a).".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

AMENDMENTS TO THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

SEC. 511. (a)(1) The last sentence of section 1410(a)(1) of the Defense Dependents' Education Act of 1978 is amended by striking out "an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school" and inserting "an equal number of representatives of professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school".

(2) The last sentence of section 1410(b) of such Act is amended by striking out "Secretary of Defense" and inserting "Secretary of Education, in consultation with the Secretary of Defense.".

"(A) the development of an efficient mode of operation of the system in the Department of Education;

"(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

"(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system.".

REDESIGNATION

SEC. 512. (a) Notwithstanding the provisions of section 601, the Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 513. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(70) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(128) Assistant Secretaries of Education (6).

"(129) Director of the Office for Civil Rights of the Department of Education.

"(130) General Counsel of the Department of Education.

"(131) Inspector General of the Department of Education.".

(f)(1) Section 5316(41) of title 5, United States Code, is repealed.

(2) Section 5316 of such title is amended by adding at the end thereof the following:

"(152) Administrator of Education for Overseas Dependents of the Department of Education.

"(153) Additional Officer, Department of Education.".

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

the resolving clause be stricken and that the language of Senate Joint Resolution 54, which was adopted on yesterday, reaffirming the U.S. commitment to the North Atlantic Alliance, be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, the request is agreed to.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 283) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further action on Senate Joint Resolution 54 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that the passage by the Senate of Senate Joint Resolution 54 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT COMMITTEES HAVE UNTIL 5 O'CLOCK TOMORROW

LONG). Without objection, it is so ordered.

DEPARTMENT OF EDUCATION

The Senate continued with the consideration of S. 210.

UP AMENDMENT NO. 67

(Purpose: To make a technical correction)

Mr. RIBICOFF. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Connecticut (Mr. RIBICOFF) proposes an unprinted amendment numbered 67:
>
> On page 131, line 16, immediately after "appropriated" insert a comma and the following: "for fiscal year 1980 and each succeeding fiscal year,".

Mr. RIBICOFF. Mr. President, on behalf of the Governmental Affairs Committee, I modify the committee amendment and send it to the desk. This is a technical amendment.

I ask unanimous consent that the committee amendment be agreed to and considered as original text for the purpose of further amendment. It was adopted unanimously by the entire Governmental Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I am pleased that the Senate is beginning floor debate today on legislation to establish a separate, Cabinet-level Department of

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUMPERS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE JOINT RESOLUTION 283—REAFFIRMING THE U.S. COMMITMENT TO THE NORTH ATLANTIC ALLIANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on House Joint Resolution 283.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (H.J. Res. 283) reaffirming the U.S. commitment to the North Atlantic Alliance.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after

AFTERNOON TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees will have until 5 o'clock tomorrow afternoon to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN ACTION TO BE TAKEN DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until 12 o'clock noon on Monday, the Vice President of the United States, the President of the Senate pro tempore, the Acting President of the Senate pro tempore, be authorized to sign all duly enrolled bills and joint resolutions, and that the Secretary of the Senate be authorized to receive messages from the other body and the President of the United States, and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr.

Education.

The Senate passed last September a similar bill by a vote of 72 to 11. It was ordered reported favorably by the Governmental Affairs Committee this year by a vote of 16 to 1. I wish to especially thank Senator PERCY, the ranking member of the Governmental Affairs Committee. Senator PERCY and I have worked closely on this legislation. Also, all the members of the committee deserve praise. I wish to thank each of them for helping to develop the legislation. It will be one of the few issues this year on which Democrats, Republicans, conservatives, moderates, and liberals alike can all agree. The cosponsors of the bill before us today, S. 210, come from all parts of the country and from all political ideologies. The more than 100 major national organizations which support the Department of Education represent education, civil rights, labor, business, parent, citizen, and State and local government interests.

It is a concept given extensive and thorough consideration, a concept with a century-long history. The Governmental Affairs Committee spent more than 2 years considering the legislation, with more than a dozen days of hearings and testimony from more than 125 witnesses.

I first saw the overwhelming need for education to have its own agency in 1961, when I served as Secretary of Health, Education, and Welfare. The HEW budget was then $30 billion.

But today, the HEW Secretary is forced to manage a department with a budget almost seven times as large—some $200 billion in fiscal year 1980.

Being Secretary of HEW is perhaps the toughest job in America. One of the first things I did upon entering the Senate in 1963 was to introduce a bill to create a Department of Education. The idea has had the never-ending support of Senators who have held expertise in the area. Senator MAGNUSON, as chairman of the Appropriations Subcommittee on Labor-HEW, has been the single most persistent supporter of the bill. Senator WILLIAMS, chairman of the Labor and Human Resources Committee, and Senator PELL, chairman of the Subcommittee on Education, have also worked with me for a separate Department.

The U.S. Senate will be debating a bill which will finally give education its rightful place in the Federal Government, a bill which attacks the HEW problem head-on.

The need for a separate Department of Education has never been greater, or more clear.

We all want better management in Government, more efficiency, less waste and fraud. But the HEW experience is a textbook case in how not to structure a Cabinet department, in how unmanageable an agency can get.

Of all the structures in the world, HEW ranks number three in size of budget—following only the Governments of the Soviet Union and the United States. Its budget increase alone is about $20 billion annually—mostly for health and welfare programs. That increase is the same as 10 State Departments, or two Departments of Energy. That is just

At the same time, another 40 Federal agencies outside HEW are involved in education. They are seldom brought into contact with those of HEW. There is much duplication, red tape, over-regulation, and wasteful paperwork. No one Federal official is at a high emotional level to take the lead and coordinate these 300 education programs.

This lack of coordination costs States and localities valuable resources which could otherwise be put into improving education. For example, Illinois State Superintendent of Education Joseph Cronin testified before the committee that he is forced to hire at least 20 staffers, at average annual salaries of $20,000 each, just to keep up with Federal paperwork, rules, and regulations.

As a result of this confusing, low-level situation in the Federal Government, our frustrated education officials leave. In the last 12 years, there have been 13 different Commissioners of Education. The present Commissioner has already announced he will resign soon.

There is an important, but carefully restrained Federal role in education. But as it becomes increasingly scattered, duplicative, and unmanageable, our ability to restrain it and manage it will be diminished.

By creating a Department of Education, separate from HEW, there will be two primary benefits. First, we will finally get a handle on our education programs, focus on them, better manage them, and give them stature in the Federal Government commensurate with the ficials, there will be one—the Secretary of Education. Instead of the 30 to 40 "principal" officers and offices in the HEW Education Division, there will be just 11. All will be on an equal par with one another, and all will report to one official—the Secretary.

A Department of Education will not be a panacea for our Nation's ills. But to the extent that we can get the Federal structure in order, we will better assist States and localities to improve their educational programs and services.

Mr. President, I would like to take a moment to respond to some of the criticisms made about the proposal to create a Department of Education.

Some have argued that we will be creating a costly new bureaucracy. The facts are otherwise. The Department of Education will not result in any new costs. In fact, there will be substantial savings. The Office of Management and Budget estimates that 350 to 450 positions will be eliminated by the reorganization, mostly the duplicative staff functions now existing within HEW.

For example, there are offices for management, budget, policy, planning and evaluation, legislative affairs, and public affairs in the Office of the Commissioner of Education, in the Office of the Assistant Secretary, and in the Office of the HEW Secretary. They are all doing practically the same thing.

The OMB also estimates further improvements in mangement and consolidation will push the total annual savings to at least $100 million annually. Again.

the increase. Almost all of it goes for the uncontrollable health and welfare programs. Within 5 years, one-half of the U.S. Government budget will be administered by one person—the Secretary of HEW.

How can we expect efficient and manageable government when this tremendous, disproportionate amount of social service responsibilities is cast upon the shoulders of one individual?

How can this one person give sufficient attention to all three, very important components—health, education, and welfare?

No matter how capable the individual, the job is simply too overwhelming.

Almost 95 percent of the HEW budget goes for health and welfare. So, the focus of HEW is on safeguarding the health and welfare of the American public. Health and welfare programs demand the undivided, constant attention of the Secretary for they are crisis-prone and touch the life of nearly every living American.

But the education part of HEW is important also. Its budget, while only 5 percent of the total HEW budget, is larger than that of five existing Cabinet Departments (State, Commerce, Justice, Interior, and Energy). Yet, it is submerged under, and made up of, many layers of bureaucracy. Its leadership is fragmented among three different officials. It is a conglomeration of some 40 statutorily created bureaus and offices which cannot be reorganized without congressional approval. It is smothered by the dominant concerns of health and welfare.

importance of education in this country. Second, the removal of the "E" from the "H" and "W" will go far toward remedying the institutional deficiencies found there, enabling better management of health and welfare programs, and of education programs.

Education in this country is a pervasive function—directly involving more than one out of every four Americans, some 60 million people. Total education spending approaches the $180 billion mark—nearly 10 percent of the gross national product. State and local governments spend more on education than anything else—some 40 percent of their budgets. It is as important a function as labor, commerce, or transportation, which have Cabinet status.

Education is a unique function in that it involves the work of all of our Cabinet Departments. So, there should be a Cabinet Secretary to work with the others to coordinate education programs.

By separating education from the overwhelming influences of health, and welfare, the Congress will be better able to clearly evaluate budget allotments.

The level of accountability for education programs will rise dramatically. Low-level, scattered bureaucrats cannot be held accountable.

The legislation before us today goes far to achieve a significant measure of consolidation of Federal education programs. In all, some 170 programs will be included in the new department.

The bill provides for clearly ordered, simplified structure which will have distinct mangement improvements. Instead of many low-level Federal education offices examples of duplication and inefficiency are easily shown. Today, some 25 different offices in HEW review and reshape all education regulations. In the Department of Education, that number would be reduced to just 10.

The new department will be the most streamlined department in the Federal Government. Although its budget will be larger than five existing departments, it will have fewer supergrades, fewer assistant secretaries, fewer executive level positions, and fewer full-time staff positions than any other department.

Some have argued that establishment of the Department of Education would lead to more Federal control of education or a national education policy. Decisions toward more Federal requiremnts or national policies are made in the Congress of the United States, not by the simple act of creating an agency. We have gone to great lengths to insure that State and local control of education is unaffected by this measure. In our bipartisan spirit, Senators Roth and Danforth have worked with me in the committee to include very specific and strong language in the bill to protect State and local control. That will be the law of the land.

I strongly believe establishment of the Education Department will arrest Federal encroachment, and present opportunities to reduce Federal burdens. There are conflicting mandates within HEW. Dominant health and welfare programs are nationally focused, centralized programs. The Federal Government plays the central role. But education is exactly the opposite. States and localities play the central role, and it should continue that way. The so-called HEW mentality and national focus can only intensify as health and welfare programs continue to dominate. Education should be separated from such a national focus. Once it is in a separate department. Federal-State-local relationships can be better defined, and States and localities can better hold the Secretary of Education more accountable for any rules, regulations, or other possibly burdensome requirements.

Lastly, some have argued that a Department of Education will become a creature of its clientele, that it will become dominated by certain education groups. The argument ignores, unfortunately, the breadth and diversity of American education, and how the new Department will address it. The Department's principal program offices will be broken down into the naturally broad education functions—elementary/secondary, postsecondary, occupational, adult and community, special education and rehabilitative services, and research and improvement. It will be structured so that each of these offices and officers will be on an equal par with one another. No one interest will be in a position to "dominate" over another.

Mr. President, I believe the bill before us today is the product of much reflection and careful analysis.

The committee has worked with the administration and the President's reorganization project in developing a refined and comprehensive bill. As my colleagues know, President Carter and Vice

American Choral Directors Association.
American Coalition of Citizens with Disabilities.
American Dance Guild.
American Dietetic Association.
American Educational Research Association.
American Federation of Government Employees (AFL–CIO).
American Federation of State, County, and Municipal Employees (AFL–CIO).
American Library Association.
American Personnel and Guidance Association.
American School Food Service Association.
American Society for Public Administration.
American Theatre Association.
American Vocational Association.
Americans for Democratic Action.
Americans for Indian Opportunity.
Association of Childhood International.
Association for Supervision and Curriculum Development.
Children's Foundation.
Citizens Committee for a Cabinet Department of Education.
Coalition of American Public Employees.
Coalition of Independent College and University Students.
College Art Association of America.
College Band Directors National Association.
College Music Society.
Committee on Research in Dance.
Council for the Advancement and Support of Education.
Council for Educational Development and Research.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of State Administrators of Vocational Rehabilitation (Exec. Com.)
Education Commission of the States.
National Council for the Social Studies.
National Council of La Raza.
National Council of State Agencies for the Blind.
National Council of Teachers of English.
National Council of Teachers of Math.
National Dance Association.
National Education Association.
National Federation of the Blind.
National Governors Association.
National Grange.
National Guild of Community Schools of of the Arts.
National Rehabilitation Association.
National School Boards Association.
National School Public Relations Association.
National Society for Autistic Children.
National Student Education Fund.
National University Extension Association.
National Urban League.
Overseas Education Association.
People United to Save Humanity (Operation PUSH).
Speech Communication Association.
State Higher Education Executive Officers Association.
Student National Education Association.
United Auto Workers.
United States Student Association.
Xerox Corporation.
Young Audiences, Inc.

STATEMENT OF JAMES T. MCINTYRE, JR.

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today in whole hearted support of H.R. 2444, to establish a Cabinet Department of Education. This bill, which you introduced along with 78 cosponsors, embodies the Administration's proposal to reorganize

President Mondale continue to attach a high priority to the establishment of the Department of Education. The President has spoken often of his lack of contact with Federal education officials, and the lack of discussion of education programs and problems at Cabinet meetings.

Federal education programs are too important to be mismanaged or smothered in bureaucracy. The Federal education effort must be efficient, effective, and helpful to States, localities, and public and nonpublic institutions.

We need a Department of Education. I strongly urge my colleagues to support the legislation.

Mr. President, I ask unanimous consent that the list of organizations supporting the Department of Education, OMB Director James McIntyre's testimony before the House Government Operations Committee, and the summary of the legislation be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

ORGANIZATIONS SUPPORTING THE U.S. DEPARTMENT OF EDUCATION

Alliance of Associations for the Advancement of Education.

American Alliance for Health, Physical Education, and Recreation.

American Association of Colleges of Teacher Education.

American Association of Community and Junior Colleges.

American Association of School Administrators.

American Association of University Professors.

American Association of Workers for the Blind.

Home Economics Education Association.

International Council of Fine Arts Deans.

International Reading Association.

Mexican-American Legal Defense Fund.

Mid-America Association.

Music Educators National Conference.

Music Teachers National Association.

National Art Education Association.

National Academy of Education.

National Alliance of Black School Educators.

National Association for Equal Opportunity in Higher Education.

National Association for the Deaf.

National Association of Administrators of State and Educational Programs.

National Association of College Wind & Percussion Instructors.

National Association of Elementary School Principals.

National Association of Mexican-American Women.

National Association of Secondary School Principals.

National Association of Schools of Art.

National Association of Schools of Music.

National Association of State Boards of Education.

National Association of State Directors of Migrant Education.

National Association of State Directors of Special Education.

National Association of State Directors of Vocational Education.

National Audio-Visual Association.

National Caucus of Black School Board Members.

National Commission on Libraries and Information Services.

National Committee for Citizens in Education.

National Community Education Association.

National Conference of State Legislatures.

National Congress of Parents and Teachers (PTA).

Federal education programs. We are pleased to work with you toward the enactment of this legislation this year. As you know, Mr. Chairman, this initiative is a very high priority of the President and this Administration.

H.R. 2444 will separate education programs from the Department of Health, Education and Welfare and combine them with programs from five other agencies to form a simpler, more accountable organization than now exists.

Today, our Nation's educational system is considered the most competent and open in the world, but it faces many problems and challenges including: decline in the public confidence in the quality of education; unacceptably high rates of high school dropouts and youth who lack skills for productive employment; limited resources at all levels to finance education; declining school age populations and increasing demands for retraining and lifelong learning opportunities. The current organization of our Federal education activities limits our capacity to help State, local and private school systems and institutions meet these challenges.

Mr. Chairman, there has been a great deal of public discussion of this proposal for a separate Department of Education. But there has been little discussion as to the fundamental issue at stake here.

The question before the Congress is simply this: How do we most effectively manage more than 150 Federal education programs? Do we do this through a separate department, as the Administration has proposed, or do we continue with the existing organization?

I believe there is a compelling case for the separate department. We will demonstrate this case here today. We will show that establishing a separate department will cut duplication. It will mean less red tape and better service to States, localities, schools and students.

There are very tangible objectives and very tangible benefits, particularly to those who administer education programs at the local level.

To date there has been little public discussion of these administrative benefits. Critics of our proposal have quite understandably chosen to divert attention to factors, that while relevant to a broad discussion of Federal education policy, do not address the day-to-day management realities of administering the Federal education programs now on the books.

I want to talk with you today about the improvements in the management of Federal education programs that a Department of Education will achieve.

The Federal role in education is an important one. There are more than 150 programs with a budget of $13 billion that are aimed at several objectives:

Promoting equal educational opportunities;

Increasing access to college education through assistance to students in low and middle income families;

Supporting vocational and career training; and

Supporting educational research and the sharing of information.

This is basically the current Federal policy—important, yet appropriately limited and supportive of the primary responsibilities of States, localities, public and private institutions for education.

Yet, we believe that the current organization of these programs in H.E.W. is not as effective, accountable and responsive as it could and should be. The management improvements that can be achieved through a Department of Education are substantial.

Let me review with you some of the serious management problems that result from the current structuring of education programs in the Department of Health, Education and Welfare. I will describe the improvements

fices would be reduced from 25 to 10. This would eliminate about 40 percent of the time it now takes to prepare the education budget.

The current process for developing a legislative proposal is equally duplicative and fragmented. Four policy offices in H.E.W. are directly involved in developing the same legislative proposals. At elast 11 offices above the Office of Education are involved in reviewing these proposals.

As a result of this duplicative, staff dominated structure, education program managers have litle effect on final legislative proposals.

The Department of Education legislation creates a simple structure that cuts in half—from 19 to 9—the number of offices involved in the development of legislative proposals. We estimate that the time required to prepare legislation can be reduced by at least 30 percent.

In addition, and this is an important point, the proposed structure for the Department places a greater reliance on program managers to perform these functions with a minimal review by staff offices.

A second problem with the current structure is the lack of management attention to education. H.E.W., with a budget of nearly 200 billion dollars and over 350 programs, is by far the largest and most complex Cabinet Department. The health and welfare programs, which are closely related and account for 92 percent of the Department's budget, dominate the H.E.W. Secretary's time and attention. The crisis nature of health and welfare issues means that education matters which account for 45 percent of the Department's programs, are set aside. On several occasions, the President has expressed his concern that education issues had rarely been brought to his attention in Cabinet meetings or other discussions. He said that education issues took less than 1 percent of his time.

Unlike a Secretary of Education, an Under Secretary would not be directly accountable to the President, the Congress or the Public. Creation of an Under Secretary of Education in H.E.W. would further complicate staff and line authority An Undersecretary would not be as effective as a Secretary in achieving useful interdepartmental cooperation or access to the press and other important channels of information. In sum, we believe that a Cabinet Department is the best organization structure for education programs.

Before providing a more detailed description of the programmatic and structural features of our proposal, I would like to respond to some of the concerns I have heard expressed about establishing a Department of Education.

Some opponents charge that this will result in more bureaucracy and greater cost. The facts do not support this charge. The Department will include no more people and will cost no more than is now devoted to education programs. In fact 350 to 450 positions will be eliminated, saving $15 to $19 million. The creation of the Department will require no new funds. Transition costs of $10 million will be met by current appropriations and offset by personnel savings.

In the longer run, there is a potential for savings of more than $100 million through improved financial management and audit systems geared specifically to education and through consolidation of the administrative functions of many programs.

Other opponents argue that the establishment of a Department of Education will increase funding for education programs. We have not seen any evidence to support this charge. Our analysis shows that organizational status and program funding do not seem related. Recent reorganization history bears this out.

Since the creation of the Departments of that a Department of Education can accomplish.

The first problem with the current structure of education programs in H.E.W. is the absence of clear accountability and the fragmentation and duplication of responsibility.

In addition to the Secretary of H.E.W., three individuals—the Assistant Secretary for Education, the Commissioner of Education, and the Director of the National Institute of Education—have a claim to the title, "Chief Education Official."

H.E.W. also has a top layer of staff assistant secretaries for management, budget, public affairs, policy, planning and evaluation. Each of them is involved in reviewing education matters. In addition, each of the major education officials has his or her own staff offices and special assistants.

The Department of Education will eliminate much of this duplication, including between 350 and 450 positions.

One example of unnecessary duplication and fragmentation in the current structure is in the regulations area. Routine regulations which must be published before funds can go to needy school districts and students take an average of 519 days—nearly a year and a half—to be issued. The shortest time is 220 days and, in at least one case, it took 1,296 days—more than three years.

The Department of Education will cut this time approximately in half by eliminating 15 offices from the clearance process.

Another example of fragmentation and duplication in the current structure that causes unnecessary delay is the budget process for education programs.

In H.E.W., 25 offices now participate in the preparation and review of the Office of Education program budgets, including:

11 offices in the Office of Education.

4 offices in the Office of the Assistant Secretary for Education.

10 offices in the Office of the Secretary.

In the simpler structure proposed for the Department of Education the number of of-

The Secretary of Education will be accountable to the President, the Congress and the public and he or she will spend full time on education issues.

A third problem is that there is little effective coordination within H.E.W. or across other departments. Neither the Assistant Secretary of Education nor the Commissioner has the stature to deal with other Cabinet Secretaries on important interagency issues. The Assistant Secretary for Education in H.E.W. now chairs an interagency committee on education. This committee has had little success in commanding high level sustained attention from other Cabinet departments and agencies. Former Commissioners have testified that there is almost no meaningful coordination of education programs with other programs in H.E.W.

A Secretary of Education would be in a far beter position to deal with other Cabinet members on important interdepartmental issues such as: education and work; Federal research programs; and the impact of, for example, energy policies on education.

Finally, the current organizational structure of the Office of Education in H.E.W provides little flexibility or authority for the Commissioner of Education to manage effectively the programs for which he is responsible. Many former Commissioners have expressed frustration at this situation. In the past 12 years, there have been 13 Commissioners of Education. The Administration's proposal for a Department of Education solves this problem by giving the Secretary full authority to organize and manage the Department's programs in the most effective way.

These problems with the current structure inhibit the effectiveness of the Federal Government in carrying out its responsibilities in the education area. Some have suggested an Under Secretary of Education in H.E.W. as an alternative to a Cabinet Department. The President considered this option more than a year ago and rejected it.

Transportation and Housing and Urban Development, funding for their programs has not increased relative to other domestic programs. In the case of Transportation, the relative funding has declined slightly.

One final argument that some opponents make is that the creation of this Department will lead to an expanded Federal role or greater control over education. The Federal role in education is limited and specific. It is to promote equal educational opportunities for all Americans through support of locally designed programs for disadvantaged, bilingual and handicapped students, and the enforcement of civil rights laws, to increase access to college education through assistance to students in low and middle income families, to support vocational and career training, and to support educational research and innovation.

These Federal policies, roles or degrees of control can *only* be changed by the votes of a majority of both Houses of Congress—the elected representatives of the people. A Department of Education cannot increase Federal control. The tradition of State and local control over education is fundamental to the strength of our system and will not be changed by a reorganization.

THE ADMINISTRATION'S PROPOSAL

As proposed in H.R. 2444, the Department includes more than 150 programs with a budget of approximately $13.5 billion, making it larger than five other Cabinet Departments. The nucleus of the Department will be the entire Education Division in H.E.W. and the following programs from five other agencies:

Education-related activities of the Office for Civil Rights at HEW.

Overseas Dependents' schools of the Department of Defense.

Certain science education programs of the National Science Foundation.

Nursing and health professions scholarship and loan programs of the Public Health Service, HEW.

Law Enforcement Scholarship and Internship programs of the Department of Justice.

The College Housing Program of the Department of Housing and Urban Development.

Special Institutions, for which HEW has budgetary oversight, including Howard University, Gallaudet College, the American Printing House for the Blind and the National Technical Institute for the Deaf.

The Telecommunications Nonbroadcast Demonstration Program, H.E.W.; and

The United States Department of Agriculture Graduate School.

We have not included the Indian education programs of the Department of Interior. Instead, before making a final decision, we plan to solicit the views of the Indian Tribes. These consultations will begin immediately and we hope to complete them within a few months.

Let me turn now to the major purposes of a Department of Education. We believe strongly that several major goals should be directly reflected in the structure of this department. They are:

First, to strengthen the Federal commitment to ensuring equal educational opportunity for every American;

Second, to improve the management and accountability of Federal educational activities;

Third, to support more effectively State and local governments and private institutions in carrying out their responsibilities; and

Fourth, to promote improvement in the quality and usefulness of education through research and information.

The Administration's proposal provides a structure of the Department which relates very closely to these major purposes. Our

Postsecondary Education, the National Center for Education Statistics and certain science education programs from the National Science Foundation. Neither this office nor the Department will include any mission-oriented research programs of other Federal departments or agencies, such as the National Science Foundation or the National Institutes of Health.

In addition to the four offices to be headed by Assistant Secretaries, the Administration's bill provides for 9 other executive level positions.

An Office of Overseas Dependents' Schools will be headed by an Executive Level official. The schools will be phased in over a three-year period to ensure an orderly transition. The plan for phasing in and administering the schools will be developed by the Secretary of Education after consulting with the Secretary of Defense and representatives of parents, teachers, administrators and students in overseas schools.

The Inspector General and General Counsel are assigned Executive Level IV positions. The Secretary is given the authority to establish other Executive Level offices for such important program functions as vocational education and handicapped education and for the major staff functions, such as management and budget, congressional affairs, public affairs, planning and the monitoring and encouragement of parent and student involvement in departmental activities.

There are several other features of the bill that I would like to note.

First, the bill contains specific language prohibiting Federal control over education policies and decisions that are properly the responsibility of States, localities and public and private institutions.

Second, it assigns responsibility for intergovernmental relations to the Under Secre-

The importance of education is increasing due to the complexities of our society and the need to provide equal opportunities for citizens.

Purposes of the Department (Sec. 102):

Enable education to receive appropriate emphasis at the Federal level.

Continue and strengthen the Federal commitment to equal educational opportunity.

Supplement and complement State, local school systems and other instrumentalities of the States and tribal governments, the private sector, public and nonpublic institutions, including educational research institutions, community organizations, parents and students to improve educational utility and quality.

Encouraging parental and community involvement.

Encourage the increased involvement of parents, students and the community in education.

Enable the Federal government to coordinate education activities more effectively.

Assist in the support of basic and applied educational research.

Supplement and complete States, local, tribal, public and nonpublic agencies by providing support for their articulated needs, especially with respect to simplification of procedures for the dispersal of funds and the reduction of unnecessary and duplicative burdens.

State and Local Responsibilities for Education:

The establishment of the Department shall not increase the authority of the Federal government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.

The intention of Congress in establishing proposal provides a simple structure that reflects the Federal role in education, centering around promoting equal educational opportunities and providing assistance to States, localities and private institutions. It also gives the Secretary flexibility in organizing and managing the Department.

Specifically, we propose that, in addition to the Secretary and the Under Secretary, there be six Assistant Secretaries, only four of which are assigned to specific offices: Civil Rights; Elementary and Secondary Education; Postsecondary Education; and Educational Research, and Improvement. The two remaining Assistant Secretary positions will be assigned by the Secretary.

The Office of Civil Rights will be headed by an Assistant Secretary. Our bill increases the stature and the independence of both the Office for Civil Rights and its head. The legislation requires that the Assistant Secretary report directly to the Secretary, submit an annual report to the Secretary and the Congress, independently collect necessary compliance data, and have the authority to hire, select and supervise staff, including attorneys and consultants.

The Assistant Secretary for Postsecondary Education will be responsible for administering student and institutional assistance programs totaling over 5.5 billion dollars. He or she will be the Department's principal advisor on matters concerning postsecondary education.

The Assistant Secretary for Elementary and Secondary Education will be responsible for administering programs to promote equal opportunities for all children and youth in public and private elementary and secondary schools.

The Assistant Secretary for Educational Research and Improvement will administer programs which support research, demonstration, evaluation and the sharing of information. The major program components of this Office will be the National Institute of Education, the Fund for the Improvement of tary. This involves liaison with States, localities and their educational institutions and the day-to-day monitoring of the impact of Federal education activities on State and local governments.

Third, it creates an Intergovernmental Advisory Council as a forum for discussing educational issues. The Council would be charged with monitoring Federal educational activities and their impact on constituents. In a biennial report it would review these issues and assess compliance with the prohibition against Federal control.

Mr. Chairman, my staff and I look forward to working closely with you and the Committee, and to the swift passage of this important legislation.

Thank you.

SUMMARY OF BILL

TITLE I

Title I states the purpose for creating the Department of Education Congressional findings (Sec. 101):

Education is fundamental to the growth and achievement of the nation.

There is a continual need to ensure equal access to education for all Americans.

The primary responsibility for education is that of State, local and tribal governments, public and nonpublic institutions, communities, and families.

The primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments.

The dispersion of Federal education programs had led to fragmentation, duplication and inconsistent Federal education policies.

State, local and tribal governments and public and nonpublic education institutions face problems as a result of a lack of coordination of education programs at the Federal level.

The present organizational position of education at the Federal level hinders presidential and public focus on education issues.

the Department is to protect the rights of State, local and tribal governments and public and nonpublic education institutions in the areas of educational institutions in the areas of educational policies and administration of programs, included but not limited to competency testing, and selection of curricula and program content as well as to strengthen and improve the control of such governments and institutions control over their educational programs and policies.

The Act does not require any particular organization at the State level of any programs transferred to the Department.

TITLE II

Title II establishes the Department (Sec. 201). It creates the following offices and officers to perform respective functions (Sec. 202):

Officer (title), and office:

Secretary (Level I). Under Secretary (Level III; performs intergovernmental functions, other duties).

Assistant Secretary (Level IV). Elementary and Secondary Education.

Assistant Secretary (Level IV). Post Secondary Education.

Assistant Secretary (Level IV). Special Education and Rehabilitative Services.

Assistant Secretary (Level IV). Occupational, Community and Adult Education.

Assistant Secretary (Level IV). Educational Research and Improvement.

Director of Civil Rights (Level IV). Civil Rights.

One additional Assistant Secretary (Level IV). (Would perform planning, evaluation and coordination functions).

General Counsel (Level IV).

Administrator of Education for Overseas Dependents (Level V).

One additional officer (Level V).

Functions (Sec. 203):

The functions of the Department include chief duties of the principal officers as well as public information, congressional relations, administration and management, and monitoring parental and public participation.

Intergovernmental Advisory Council on Education (Sec. 213):

The purpose of the Council is to make recommendations concerning intergovernmental policies and relations relating to education. The Council consists of 25 members, including representatives of the general public, school officials and State, local and tribal governments. In addition, the Undersecretary would serve as an ex officio member of the Council.

Federal Interagency Committee on Education (FICE) (Sec. 214):

The purpose of FICE is to assist in the coordination of the procedures and actions of the Department and other Federal departments and agencies. It would consist of 17 members representing various agencies having educational interests. It would be chaired by the Secretary.

TITLE III

Transfers of agencies and functions

Sec. 301 transfers the following: All programs of the Education Division, the Office of the Assistant Secretary for Education, the Institute of Museum Services, the Office of Information and Resources for Handicapped Individuals, the Rehabilitation Services Administration (except for the developmental disabilities programs), the National Institute of Handicapped Research, the Interagency Committee on Handicapped Research, the Helen Keller Center for Deaf-Blind Youth and Adults and the National Council on the Handicapped. Also transferred are HEW's education functions for the Office of Civil Rights, for education advisory committees, the telecommunications-demonstration grants, HEW's responsibilities for Gallaudet College, Howard University, the American Printing House for the Blind and the Na-

Sec. 414 redesignates reporting requirements to the Secretary which were required previously to the Commissioner of Education or the Assistant Secretary for Education. Subsequently, the Secretary is authorized to redelegate the reporting requirements to appropriate officers or employees within the Department.

Sec. 415 authorizes the Secretary to prescribe rules and regulations for the Department.

Sec. 416 authorizes the Secretary to enter into contracts, grants, leases, cooperative agreements or other similar transactions with officials of Federal, public and private agencies.

Sec. 417 authorizes the Secretary to provide technical assistance, advice and counsel to interested persons with respect to the Department's programs or functions.

Sec. 418 authorizes the Secretary to establish, maintain, alter or discontinue regional or field offices.

Sec. 419 provides for the maintenance and acquisition of property.

Sec. 420 provides for facilities at remote locations, for employees and dependents of the Department.

Sec. 421 allows the Secretary to use services and facilities of governmental agencies or instrumentalities with or without reimbursement.

Sec. 422 authorizes the Secretary to acquire copyrights, patents or licenses, etc., if necessary.

Sec. 423 authorizies the Secretary to accept gifts and bequests for the purpose of facilitating the work of the Department.

Sec. 424 authorizes the Secretary to establish a working capital fund.

Sec. 425 allows for the transfer of funds from one appropriation to another within the Department, but not to exceed 5% of the amount authorized to be appropriated.

new Department refer to the Secretary or the Department (Sec. 507);

Conforming amendments (Sec. 508);

Consultation with the Secretary of Labor is provided for (Sec. 509);

Conforming (Sec. 510);

Department of Defense amendments, plus revision of membership of Advisory Council on Dependent's Education to broaden its representation to include parents and teachers (Sec. 511);

Redesignation of HEW as Department of Health and Welfare (Sec. 512).

TITLE VI

Title VI provides for the effective date of the Department as 180 days after the Secretary takes the oath of office (Sec. 601) and allows appointments of the principal officers and promulgation of regulations before the effective date (Sec. 602).

(Mr. BRADLEY assumed the chair.)

Mr. PERCY. Mr. President, before the distinguished manager of the bill leaves the Chamber, the Senator from Illinois wishes to ask him a question.

Mr. RIBICOFF. I am not going to leave.

Mr. PERCY. The Senator is in the unique position of being one of few Senators who has served in the Cabinet of the United States.

How many years did you serve as Secretary of HEW?

Mr. RIBICOFF. I served as Secretary for 2 years.

Mr. PERCY. Two years.

Mr. RIBICOFF. And may I say that it was comparably a small department that has grown tenfold, and it was the largest bureaucracy. There was more red-tional Technical Institute for the Deaf, and the student loans for nurse training.

Transfers from other agencies include: Department of Defense's operation of overseas schools for dependents (Sec. 302), National Science Foundation's science education programs, including programs for undergraduate instructional improvement, assistance and research in science education (Sec. 303), Department of Justice's law enforcement student loans and grants (Sec. 304), the Department of Housing and Urban Development's college housing program (Sec. 305), and the Department of Labor's migrant education program (Sec. 306).

TITLE IV

Administrative programs

Personnel Provisions:

Sec. 401 provides for the appointment of personnel to the Department. It authorizes technical and professional employees for the Office of Educational Research and Improvement; 15 transitional employees; a total of 71 positions at GS-15, 17 and 18. Of these, 50 new positions are authorized and 21 are continued.

Sec. 402 provides for experts and consultants.

Sec. 403 provides for Congress to authorize an end strength for personnel for the Department.

Sec. 411 provides for authority of the Secretary to exercise the functions of the agencies and offices within the Department.

Sec. 412 provides the Secretary authority to delegate functions to officers of the Department.

Sec. 413 prohibits reorganization of any structural entities established by statute within the Department. However, some flexibility is allowed for offices if procedures, which include specified notice requirements to appropriate congressional committees, are followed.

Sec. 426 provides for a Seal of Office for the Department.

Sec. 427 requires the Secretary to issue an annual report which includes an assessment of the plans for the Department. The report shall include a discussion of the effective management and coordination of functions of the Department as well as the recommendations concerning reduction of burdensome regulations and unnecessary duplication.

Sec. 428 transfers authorities under the General Education Provisions Act to the Department.

Sec. 429 authorizes sums to be appropriated for the Department.

TITLE V

Transitional, savings and conforming provisions

Title V contains the transitional provisions for the Department. Its significant provisions are as follows:

Transfer and allocations of personnel and funds (Sec. 501);

Effect on personnel. Maintains transferred employees in their present grade and compensation for one year. (Sec. 502);

Termination of operation of law of any existing office or agency all of whose functions are transferred (Sec. 503);

Authorization of Director of Office of Management and Budget to make determinations of incidental transfers of people and funds relating to transferred programs (Sec. 504);

Continuation of existing orders, proceedings, etc., made before the transfers by parent agencies until modified by the Secretary or the President (Sec. 505);

Separability. Preserves remainder of Act if any person or circumstance is held invalid (Sec. 506);

Reference. Ensures any other references which are applicable to the functions of the tape, there were more agencies, more programs, and more people served than any other Cabinet department.

It became very obvious to me in my years of service that education was being shortchanged. Education never presented the same problems of health and welfare and the Secretary's time then and the Secretary's time as they succeeded me up until the present has been devoted less to education than the other functions.

Mr. PERCY. I wish the Senator to think back. In the 2 years of sitting in Cabinet meetings with the President of the United States and all of the Cabinet, what proportion of the time did the Cabinet and the President spend on the education of our future citizens? Is there any kind of an estimate? I ask that question because I put the same question to Frank Moore, Assistant to the President for Congressional Relations, just the other day, and he astounded me by saying he really could not think in the past several years in the Carter administration when education had been raised as an issue, when they had talked about one of the most important responsibilities we have in this country, the education of our future citizens. What kind of a Nation we are going to be depends upon what kind of citizens we have and how well educated they are. Could the Senator give me some idea? Was it discussed frequently, infrequently, never?

Mr. RIBICOFF. May I say this, I do not recall education ever being brought up at a Cabinet meeting. I did discuss education with the President because there were many controversial issues that came to the floor of the House of Representatives and the Senate that were discussed with the President and his staff during that period. But my feeling is that once there was the full flush of the beginning programs of President Kennedy education was very, very seldom discussed.

What I do know at the present time is that the Commissioner of Education, has never been at the White House to meet personally with the President. Most Commissioners of Education and Assistant Secretaries of Education never once during their entire stay in office ever see the President. We had one embarrassing situation where the Commissioner of Education was summoned to the White House and not let in by the guard because the guard did not know who he was. I cannot imagine a secretary of the Cabinet not being allowed to go into the White House grounds by a guard at the gate. So that indicates education's low status.

But I think this emphasizes the need for a Department of Education, and the low level of Commissioners of Education is not because of their ability and character. Every Commissioner of Education that I know has been an outstanding man of great ability, experience, character and commitment toward education. They came to Washington with stars in their eyes with the intention of doing something constructive for in and year out on these budgets, there is no spokesman for education."

It is very interesting that every Senator who has been involved in this body with education responsibilities is anxious and a cosponsor of this legislation. Senator MAGNUSON, Senator PELL, Senator WILLIAMS, and those Senators who deal with education on an authorizing or an appropriations basis on behalf of all of us continue emphasizing the necessity of creating a Department of Education.

Mr. PERCY. I thank my distinguished colleague.

Without any real knowledge as to what the Carter Cabinet talks about, and we do know that the President is deeply interested in education, I rather imagine that the Secretary of HEW has certainly talked about cigarettes in Cabinet meetings, possibly also on its impact on the tobacco areas of the country and on the health of the country. He and his Cabinet have talked about the scandals in GSA. They have talked about, certainly, I would say, the nuclear incident that we had in Harrisburg and probably talked about the snowfall that fell in Chicago and that caused a disaster. They have talked about the Mideast. They have talked about China. They have talked about the Panama Canal. But they have not addressed themselves, as the top policy officers in the executive branch of Government, probably in 2 years to more than a couple of hours at the most, if that much, on the subject of education. And all we are doing in this legislation, and Welfare, where less than 5 percent of that Department's budget is devoted to education. In addition, the bulk of education programs in the Department of Health, Education, and Welfare are administered by a Commissioner of Education, and the Assistant Secretary of Education has few responsibilities and even less weight within that Department.

As the distinguished Senator from Connecticut has indicated, we have had a vast turnover of Commissioners of Education. In the 13 years that I have been in the Senate, there have been 13 Commissioners of Education.

When you take into account that it takes a few months to get organized and acquainted with the situation, and the Department of HEW is a vast labyrinth, and then if you allow a couple of months to transfer your duties when you leave, you have got an average of about 6 months' work on the job for the average commissioner.

Mr. RIBICOFF. We happen to have been endowed with sevral very able commissioners, and certainly not the least of whom is Dr. Boyer, the present incumbent. The fact that he is leaving poses the question, if he were to be asked to be the Secretary of the Department of Education, would he have had to leave? My judgment is we would be able to keep people on the job and keep this job as an important job in high priority in the Federal Government if it is given Cabinet status.

Mr. PERCY. Mr. President, this is a

education, and felt that they were the persons who could do it. When they got here they were completely frustrated. They were relegated to a position of unimportance and never were at the seats of where the power was distributed, emphasized or created.

Consequently, after a short few months they went to greener pastures and quit their job in frustration. I do not think that would take place if a Commissioner of Education was really a Secretary of Education.

Mr. PERCY. I shall conclude this part of our colloquy. It is absolutely astounding that a Secretary of HEW who served in the President's Cabinet for 2 years found himself so engulfed with other problems, devoted as he is to education, that education could not be given much time at the Cabinet level.

Mr. RIBICOFF. May I say that I felt that education was more important than any other phase of my job but the problems that came on and the crises created were generally in the health field and welfare field and you are always putting out fires.

It was my determination when I was through with the Cabinet and came here that education had to be split off and taken out of the HEW. And what is interesting is the first day I came to the Senate floor the first one who grabbed me was Senator MAGNUSON, who was in charge of the Appropriations Subcommittee that handled education, and he said to me: "Abe," he said, "the first thing you have to do is get a bill in here and create a Department of Education. This is outrageous. As I am sitting year

and I commend my distinguished colleague for his foresight in wanting to do this and the depth of feeling that he has about it, is simply raising education to a higher level. All the red herrings dragging across the path that someone wants to have more Federal control to education, or something like that, are simply wrong.

All we say is the children of this country, and their education, are important. And we feel that education is undernourished, underfinanced and that the financing probably has the wrong base today. That is why we have bond issue after bond issue being turned down around the country and a condition where the proper priority in thinking and in action is not being given to education. We are simply saying one way to start is to give it status, to give it clout, as we say in Chicago. All we want is a Cabinet official who will sit there and represent the tens of millions of children in this country.

Mr. President, I join my colleague and the distinguished chairman of the Governmental Affairs Committee, Senator RIBICOFF, in support of S. 210, the Department of Education Organization Act of 1979.

Education has always been one of my highest priorities. It should also be one of our Nation's highest priorities. However, that has not always been true, as has been demonstrated by the colloquy that the distinguished Senator (Mr. RIBICOFF) and I have had. Presently, education has a low status in the Federal Government. It is a malnourished component of the Department of Health, Education,

question of national priorities. Three-tenths of our population is in some way involved in education—either as students, teachers, or administrators. Governmental expenditures for education at all levels will be more than $100 billion during this fiscal year.

What has been the Federal response? Federal expenditures for education have actually declined, from approximately 12 percent in the late 1960's to a little more than 8 percent today. This has occurred at a time when school districts throughout the country are faced with severe financial difficulties. Many schoolchildren will miss valuable days in school simply because their school system is broke. In addition, the Federal education effort is greatly fragmented, resulting in an uncoordinated approach to solving the many problems facing our Nation's schools.

With respect to the financing, we all know there is a limit to property taxes. Proposition 13 addressed itself to that issue, and rightfully so. Homeowners are simply outraged at the rising taxes on their homes. We have tried to provide, through the years, every incentive for people to become homeowners, to be a part of their communities. But today the property taxes are driving up costs so high that older people are being driven out of their homes, and younger people cannot afford to become homeowners. That is why proposition 13 was such an important concept for people, who by its passage said "Enough is enough."

Property taxes are regressive. Sales taxes are regressive. My own son-in-law, the Governor of the State of West Virginia, has fought for years to take sales taxes off of food. Finally this year, after years of battle, he has succeeded in phasing out sales taxes on food. That is a sensible, sound thing to do, because the regressive nature of sales taxes is such that it imposes the greatest hardship on the poor, who are least able to afford it.

On the other hand, the Federal Government—and I say parenthetically, before I go on to the Federal Government, that local and State taxation comes essentially from property taxes, from sales taxes, from gasoline taxes, and from other things that are flat taxes, paid for at the same rate by rich and poor—has about a 90-percent monopoly on the progressive income taxation of this country. Those who are most able to afford to pay, pay.

Certainly, to finance education out of regressive taxation, and have a declining percentage of educational expenses borne by the Federal Government, from 12 percent down to 8 percent in recent years, there is little wonder that the quality of education is suffering in this country.

I would like to point out to my colleagues that neither the intent nor the effect of S. 210 is to create a monolithic new structure. On the contrary, it would achieve real efficiencies and savings. For example, it would have the fewest number of supergrade positions, 114, and the fewest number of full-time permanent positions, 16,842, of any Cabinet-level department. The figures for the next lowest Department, Housing and Urban

any manner, shape or form intended to detract from local control of education or to give the national Government control over education.

Just as we acknowledge that the strength of a nation rests with its people, we must also realize that its greatest natural resource is its children. We must do more to develop that precious resource. Raising education to a Cabinet level position in our Government will symbolize our commitment to provide quality education to all of our children. For this reason, I believe that the passage of S. 210 will be one of the most significant acts of this Congress. I urge its support.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. PERCY. Mr. President, I am happy to yield to the distinguished Senator from Delaware and the distinguished Senator from Connecticut.

Mr. ROTH. I appreciate the courtesy of the Senator yielding.

Mr. President, last year during consideration of S. 991, a bill to establish a separate, Cabinet-level, Department of Education, I entered into a colloquy with my colleagues—Senators RIBICOFF, DANFORTH, GARN, and PERCY, to clarify the intent of the legislation to preserve and protect the rights and prerogatives of State and local governments in the educational process. We have before us today a new bill, S. 210, to establish a separate, Cabinet level Department of Education. I feel it is a better bill than

functions transferred to the Department; these provisions include a prohibition of Federal control over educational programs and policies.

There are currently approximately 300 Federal education programs scattered throughout 40 Federal agencies. In creating a Cabinet Department of Education it is hoped that the management and coordination of these programs can be substantially improved and ease the burden on the State and local governments of the multiple, duplicative and often conflicting regulations which have resulted from this fragmentation of the education effort. Effective management does not mean more control, however. S. 210 provides mechanism which gives the Department an intergovernmental perspective and thrust. The Undersecretary of the new Department has been assigned the specific responsibility for the conduct of intergovernmental relations; by giving the Undersecretary this responsibility there will be an overall effort in the Department to be sensitive and responsive to activities on the Federal level which should not be at odds or in conflict with education activities at the State and local level. The bill also establishes an Intergovernmental Advisory Council.

The purpose of this Council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education. It will serve as a forum to bring the opinions and ideas of those persons involved in the

Development, are 116 and 17,400, respectively. In addition, the Office of Management and Budget has informed the committee that elimination of duplication will further reduce the Department by another 350 to 450 positions.

Mr. President, I want to take a pledge today and send a message today to the newly-to-be-created Department of Education, if this legislation is accepted by the House and the Senate, and to the Office of Management and Budget, that the Governmental Affairs Committee will hold them to these figures. We will have oversight over this, and these are figures given to us by OMB and we expect it to adhere to them. We do not want to create a large bureaucracy. There is no need for it.

Mr. President, finally, regarding an issue of great concern to the committee, there is specific language in S. 210 designed to protect State and local prerogatives in education. In this regard, I particularly refer my colleagues to section 103 of the bill. I would like to take this opportunity to commend Senators ROTH and DANFORTH for their leadership on this issue.

In just a few minutes, I will be yielding to Senator DANFORTH so that we might have his thinking on it, which I think would be extraordinarily important as a reassurance to all of those people in this country, including myself, including Senator RIBICOFF, and most of the sponsors of this bill, that we are devoted and dedicated to local control of education. This Department, by legislative history, intent, and wording of the statute is not in the one we had last year. It is a better bill because we have had the opportunity to improve upon our language from last year on the subject of State and local control over education.

During hearings before the Governmental Affairs Committee this year on S. 210, we had an opportunity to address the issue of State and local control in relation to the establishment of the Department of Education when we heard testimony from a panel of witnesses representative of the interests of education on this level. The groups represented were the National Governors Association, the Education Commission of the States, the National Association of State Boards of Education, the National Conference of State Legislatures, the National School Boards Association, and the Council of Chief State School Officers. The recommendations made during the hearings by these groups were most beneficial in improving upon the language in S. 210 for State and local control.

In the establishment of a separate Cabinet-level Department of Education we are in no way suggesting, condoning, or implementing an entity to exercise Federal influence over the formulation of policies, choice of curricula, administration of programs, choice of educational objectives and program content, or anything which could be construed as the establishment of a national educational policy. S. 210 positively reaffirms our commitment to State and local responsibilities for education in title I section 103 of the bill. It should also be noted that the provisions of the General Education Provisions Act apply to the educational process to the attention of the Department. From this perspective the Council is a valuable component of the new Department to supplement and complement State and local efforts to meet the Nation's education needs.

There has been a long tradition in this Nation of local control over education. This tradition is guaranteed by the constitutional requirements of the 10th amendment. The intent of S. 210 is to preserve the prerogative of the traditional role of education as a function of State and local governments and private institutions.

I can think of nothing else that so affects all Americans as education. I can think of no other area where Americans insist more upon a strong local control than education. Education is vital to our country's sustenance and well-being. Education is crucial for good government as it provides the road for an informed public which is a key to an effective democracy. I believe that education is a priority which deserves Cabinet-level status and thus I have cosponsored this bill. My distinguished colleague Mr. RIBICOFF, as chairman of the Governmental Affairs Committee and chief architect of this bill has once again demonstrated his leadership ability and the continuing concern with the important issue of education. I believe other of my colleagues would also like to address the concern of local control over education and I would be interested in the chairman's observations on this important matter as well.

I would point out that one of my principal concerns has been to make certain that the new Department of Education in no way downgrades local control of the schools. That is the purpose of my statement.

Mr. RIBICOFF. Mr. President, in response to the distinguished Senator from Delaware, let me point out that he states quite clearly the intent of the committee in establishing this legislation. Last year, the committee was pleased to accept the Roth-Danforth amendmets. The amendments reaffirmed the foundation for the Department.

Federal presence in education does not mean control. Local control of schools is traditional and historical. The Federal Government is involved in assisting State and local governments to insure equal opportunity and equal access to education programs. It provides assistance to States and localities for programs for the disadvantaged and handicapped. It funds programs to assist with educational research, environmental education, community education and provides assistance to needy children.

A Department of Education is supported by the very groups who would fear Federal intrusion—the National School Boards of Education, the State School Boards of Education, the Chief State School Officers, the National PTA, and the National Conference of State Legislatures.

I want to reiterate that a Department of Education will increase accountability for education—it will provide a mechanism for State and local governments to impact upon administration of Federal programs and rules and regulations on States and localities. S. 210 has given responsibility for intergovernmental activities to the Under Secretary. These responsibilities will be core functions of the Department. In addition, the committee specifically added language to state the intent of Congress in establishing the Department is not to increase the authority of the Federal Government over education or to diminish the responsibilities for education reserved to States and their instrumentalities.

Mr. PERCY. Mr. President, the issue of maintaining State and local prerogatives in education as one of great concerns of the committee. We have done a good job to clarify this issue, both in the bill itself and in the legislative history.

Specifically regarding the bill, there are references to State and local prerogatives in the following places:

> Section 101(3).—the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families.
>
> Section 103(a)(1)—The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems, and other instrumentalities of the States, and tribal governments.
>
> Section 103(a)(2)—It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions

date the Senate on the very eloquent colloquy that he had on the floor of the Senate last year during the consideration of this same legislation.

Mr. DANFORTH. I am most appreciative of the Senator from Illinois. This morning's Washington Post editorial says in part:

> It is also true that to create a Federal Department of Education would imply an intention to expand Federal jurisdiction over the schools.

Last year, when this same proposal was before us, both in the Governmental Affairs Committee and on the floor of the Senate, we went to great length to create a legislative history that there was no intention, either implied or expressed, to give the Department of Education expanded Federal jurisdiction over local schools.

In the CONGRESSIONAL RECORD of September 28, 1978, there was a colloquy between Senators RIBICOFF, PERCY, ROTH, and myself on this point.

I would like to ask the chairman of the Governmental Affairs Committee and the ranking minority member if I am correct in my understanding, and if the colloquy of September 28, 1978, continues to reflect the position of the Senate on this bill. I think it is very important to create a legislative history that is crystal clear, that but for this understanding we would not be passing this bill.

Mr. PERCY. Mr. President, I am happy to yield to my distinguished colleague for his comment and I will follow him.

Mr. RIBICOFF. May I respond? Every-eral education programs—it will, in other words, provide for improved management of Federal programs—it will not in any way lead to Federal control or dominance of education.

The National Conference of State Legislatures has written to all Senate Members stating: "We believe that new language incorporated into S. 210 at NCSL's request provides limits to the Federal role in education and goes far to insure that a prospective Federal department would be responsive to State and local concerns."

In addition, a wide group of school administrators, parents, students and teachers support the Department.

Commissioner Boyer last month before the committee said there was far more encroachment now because of the existing lack of accountability for education in HEW. The new Department will insure accountability—thereby decreasing Federal intrusion. Congress will be in a better position to monitor the Department's activities. After all, it is Congress, in the first place, which writes the laws and programs for the Department to administer.

I believe S. 210 has been greatly improved to insure the Department will not encroach on State and local responsibilities for education. The Roth-Danforth amendments accepted by the committee last year, which are incorporated into S. 210, were a major improvement to the bill in this regard. Also, the bill creates the Intergovernmental Advisory Council on Education which will monitor the impact of the Department's pro-

> tions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

The bill also creates an Intergovernmental Advisory Council on Education, comprised of a broad spectrum of interested parties, charged with "(providing) assistance and (making) recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education."—Section 213(a).

This indicates that there is not anyone with a 5th grade education, and that includes anyone in Government administering this act, who could presume in any way that this act, or the fact that we have created at the Federal level a Department of Education, in any way detracts from the control that the local and State governments shall have over education.

I wish to express my deep appreciation to my colleagues, Senators DANFORTH and ROTH, for the valuable contribution they made to this legislation in the past Congress. The statute itself has been immeasurably strengthened as a result of the work that they did in committee. I commend them on this and simply reaffirm the positions they take are the intended purposes of the managers of the bill.

I am pleased to yield to my distinguished colleague from Missouri so that he might complete his comments and up-

thing that was said in that colloquy pertains to this present legislation and I reaffirm it.

Last year the committee was pleased to accept the Roth-Danforth amendments which made it crystal clear, because we on the committee all agree that local control of schools is traditional and historic. It is interesting that in testimony this year Commissioner Boyer said there was far more encroachment now because of the existing language of accountability for education in HEW, and the creation of this Department would be a lot better for local control than the present situation today.

I agree and commend the distinguished Senator from Missouri and the Senator from Delaware for their work on the amendment and making crystal clear to all what the intention of this bill will be, what the intention of the Senate will be, and what the intention of the entire Governmental Affairs Committee is.

Mr. DANFORTH. I am most appreciative to Senators RIBICOFF and PERCY for their help in this matter.

Mr. PERCY. Mr. President, I am happy to yield 5 minutes to my distinguished colleague from Maine. Through our careers together we have agreed on so many issues that it is almost refreshing to find that we sometimes do disagree. It is with great respect that I look to his views and to benefit from his comments. I think the legislative history will be sharpened as a result of his incisive thinking on this matter. We some day hope to have him as an enthusiast for the department, but at this stage I certainly respect his right to disagree with his committee. He disagreed during the course of the committee but at no time ever caused us to delay, for one moment, even, the carrying forward of this matter so that it could be given full consideration on the floor. I am happy to yield 5 minutes to the distinguished Senator from Maine.

Mr. COHEN. Mr. President, I thank my distinguished friend from Illinois for his generous comments. I do not wish to burden this body with a repetition of my full statement which is contained in the minority views accompanying this legislation. As the Senator from Illinois realizes, the vote was rather overwhelming, 14 to 1, within the committee.

Before proceeding, let me simply suggest to the Senator from Illinois that Justice Holmes once said that the history of law has not been logic, it has been experience.

(Mr. BAUCUS assumed the chair.)

Mr. COHEN. I believe that statement applies in this case. No matter how mandatory the language, no matter how tightly drawn, the history we have learned from Federal agencies is that whenever there is an opportunity to extend more control, it is taken.

Mr. President, as Congress attempts to curtail the expansion of our overgrown Federal bureaucracy, it faces a predicament not unlike that of Hercules trying to slay the mythical, multiheaded monster, Hydra. Every time that Hercules cut off one of Hydra's heads, two more would spring up in its place.

administrative difficulties. I do not, however, believe that the committee's solution of taking the "E" out of HEW will cure these difficulties. I have found no evidence which suggests that the problems plaguing Federal education programs—duplicative and conflicting regulations, burdensome and unnecessary paperwork, and unclear lines of authority—would disappear or even be significantly reduced were a separate Department of Education to be created.

To the contrary, the actions of the present Commissioner of Education, Dr. Ernest Boyer, suggests that many of these difficulties can be solved by streamlining and reorganizing within the confines of HEW. For example, Commissioner Boyer has consolidated student loan programs with admirable results, proving that improvements are possible within the HEW structure.

The decision to create a new Department of Education needs to be more carefully considered in light of our commitment to reduce the size of the Federal Government. It is ironic that President Carter, who campaigned on the pledge to revamp the executive branch by reducing the number of Federal agencies from 1,900 to 200, should be supporting legislation to create yet another Cabinet department.

As envisioned by the bill's sponsors, the Department of Education would include more than 150 programs and over 16,000 employees, including a Secretary of Education, an undersecretary, six assistant secretaries, a director of the Office of eral education programs under one roof this legislation does not accomplish that goal. Perhaps proponents hope that if Congress would create a shell now, the President could use his reorganization authority in future years to transfer additional programs with only minimal congressional review or political opposition.

Since this legislation neither consolidates existing education programs nor offers any guarantees that the current administrative problems would be alleviated, I believe that the debate on this bill must center on whether it is desirable to have an increased national focus on education. We need to consider what a more centralized focus would imply for educational policy in this country.

Supporters of this legislation argue that creation of a Department of Education would increase the status and visibility of education in the Federal Government and would recognize it as a fundamental national activity. I have no disagreement with this assertion, but I question whether or not we want to increase the Federal role in education.

The diversity in our present education system is one of its strengths. This attribute stems at least in part from our strong tradition of citizen involvement in determining educational policy at the State and local levels. Unlike other countries, we do not have a national "ministry of education," which establishes and controls education for all of the Nation's schools. Instead, we have local school

Our bureaucratic version of the multiheaded behemoth is the Department of Health, Education, and Welfare, which consumes more than one-third of that once vast pastureland known as the Federal budget. While HEW's appetite has been expanding, its productivity and efficiency have been declining.

We are told, however, that HEW is not well balanced. Education has not received the funding or the attention given health and welfare. It lacks an informed and concerned spokesman who has the ear of the President. As a result of this neglect, education has become malnourished. I pass over the fact that having a spokesman who has access to the ear of the President at the feeding ground in the Oval Office has not produced a model of efficiency in either our health or welfare programs.

Nevertheless, the committee is asked to grasp the sword of efficiency and lop the "E" from HEW and then create a new agency, a new head, a new house, and yes, a new foundation. If we feed "E" properly, attend it carefully and manage it strictly, then ultimately we will have to spend less on its brother and sister, "H" and "W."

If the past is merely prolog, then the future for this new agency, and for the taxpayers who must support it, is not promising.

Few would dispute the contention of proponents of this bill that education programs are lost in the present organizational maze of HEW and that the existing structure has produced severe Civil Rights, a general counsel, and an inspector general. The legislation also creates a new advisory council and provides all of the other trappings and costs that accompany Cabinet status. With a budget in excess of $14 billion, the Department of Education would be larger than five of the present Cabinet departments—State, Interior, Commerce, Justice, and Energy. And based on our experience with the self-perpetuating nature of Federal agencies, it is safe to predict that the Department of Education would inevitably grow even larger.

If, as the sponsors of this bill assure us, the State and local governments are to retain responsibility for education in this country, why is this bureaucracy needed? We run the substantial risk of pouring more and more tax dollars into a massive Federal bureaucracy that will do nothing to improve the quality of education in this country.

One of the reasons advanced by those who favor creating a separate Department of Education is that greater efficiency would result from the consolidation of education programs now scattered throughout the Federal bureaucracy in departments as diverse as Justice and Interior. This legislation, however, does very little to promote consolidation. Almost every non-HEW education program, including school lunch, Indian, and veterans' education programs, would not be transferred to the new department, and some disagreement still exists about those responsibilities that would be included under its jurisdiction. While it may indeed be advisable to place all Fed- boards comprised of the community's elected representatives who make educational decisions for public schools. The Federal Government's role has been a limited one, particularly in determining policies.

The distinguished sponsors of this legislation have gone to great lengths to try to satisfy the serious concerns that many of us have concerning the possibility of Federal encroachment on the rights of State and local governments to control education. Language has been included in the bill restricting the powers of the new Department and stating that the State and local governments would retain primary responsibiltiy for education. I find very little comfort in these words. A Cabinet-level office is, by its very nature, a policymaking office, and the supporters of this bill state that they want to increase the visibility of the Federal Government's education efforts.

How can we insure that the Federal Government would not be involved in setting educational policy and at the same time confer Cabinet status on a Secretary of Education?

Our history clearly demonstrates that whenever the Federal Government becomes involved in a matter previously handled by the State and local governments, the State and local role inevitably decreases. In recent years, as the Federal share of education costs has risen, local school districts have become increasingly ensnared by Federal regulations. This trend will only increase with the creation of a separate Department of Education. The temptation to attach strings to Federal education moneys is always present, and the tendency of Federal agencies to promulgate endless regulations that erode or preempt the authority of State and local governments is well documented.

It is interesting to note that the administration, which so strongly supports this measure for its consolidation objective, opposes a bill before this committee to replace the three Federal agencies which regulate banking with a single consolidated Federal Bank Commission. In his testimony on behalf of the administration, Deputy Secretary of the Treasury Robert Carswell made the statement that he who controls the purse strings will also ultimately set the standards. This administration appears to be cognizant of the problem of Federal encroachment in the banking field, yet seemingly unaware of it in education.

I am also concerned about the precedent that we would establish in creating a narrowly-based, Cabient-level department.

Educational organizations, for the most part, support creation of a separate department. But other interests would also like to have Cabinet representation. Small business groups for years have pressed for an upgrading of the status of the Small Business Administration to Cabinet level. Women's organizations would like very much to see the creation of a department of women, and environmentalists no doubt would prefer to have environmental issues separated from the Interior Department's other

House-Senate Conference Committee, and that this approach would resolve the issues of visibility and coordination without undertaking the very real and very serious risk of furthering the drift toward centralized planning and control.

If the purpose of this bill is to consolidate Federal educational programs under one roof in one agency, with one secretary, one bureaucracy, then the proposal fails to accomplish that goal. Indeed, many of the educationally oriented programs have been deliberately omitted from the new department in order to gain political support for the bill itself.

The distinguished Senator from New York (Mr. MOYNIHAN) has recognized the patent inconsistency in this legislation when he said in his statement yesterday that we should ask ourselves "what interest is served by establishing a narrowly-based and fragmented department. A narrow Department of Education, organized primarily around the concept of public elementary and secondary schooling, will lead to the politicization of education itself."

I have heard it said, on this floor and in the committee, that education in this country is in trouble. We have to ask these questions: Is veterans' education in trouble? Are the Indian education programs in trouble? The school lunch program—is that in trouble? If the answer is yes, then we have to ask, how is this bill going to deal with those problems? They are not covered in this bill.

If the problem with our educational system in this country is that we have

control will follow the dollars, as pointed out by my minority views.

Mr. PERCY. Will the distinguished Senator mind one comment there?

Mr. COHEN. I yield to the Senator from Illinois.

Mr. PERCY. As a general principle, what the Senator from Maine is saying has been true, except that the Senator from Illinois recalls a time when he sat in that back row, and next to him was his colleague, Senator HOWARD BAKER. I was a cosponsor, and Senator BAKER was the sponsor, of a certain piece of legislation. We said we were bound and determined to have a bill that did not involve Federal control, that had confidence in the people out in the States and in the communities. It was called revenue sharing.

President Lyndon Johnson could not see it for sour grapes, and many Democrats could not see it. My own distinguished colleague from Illinois (Mr. STEVENSON) said it is outrageous. In a sense, he meant that. I do not know if those were his words or not, but he felt if Federal money were spent, the Federal Government ought to control it. Our principle was, let us try it. Let us see if we can do it.

We have spent $6.3 billion, with fewer than 200 employees and a payroll less than $3 million. There has not been a breath of scandal that I have heard in all those years. If you go from town to town, city to city, you will find it is one of the most important programs we have functions and elevated to Cabinet status. Our fishermen also want a department of fisheries. All of these interests are very important, and to their supporters, they are deserving of increased Federal recognition. But, if our goal is to stem the growth of the bureaucracy, how can we rationalize the creation of a new department in view of the competing and perhaps equally important demands of other groups for similar representation?

In sum, there are three choices available to Congress:

We could maintain the status quo; we could, at the other extreme, create this new Department of Education; or, third, we could make reorganizational changes within the existing structure. I do not think anyone in this body would recommend that we maintain the status quo, because there are recognized deficiencies, inefficiencies, administrative problems, and confusing lines of authority within the existing structure. But these problems could be corrected if the spirit were willing. In fact, a procedure was recommended by the representatives of the Association of American Universities. I quote from their recommendation, as contained in the testimony delivered by Thomas Bartlett before our committee.

He suggested:

> A reorganization of HEW to combine the offices of Assistant Secretary for Education and U.S. Commissioner of Education in a new position of Under-secretary for Education—with sub-cabinet rank, full and direct access to the Secretary of HEW, and full authority to supervise and coordinate Federal education policy. We firmly believe that this concept can be refined to cope successfully with the problems that defeated it in the 1976

lost discipline, that we have lowered goals and standards, that we have reduced teacher qualifications, how will this bill address those problems? Will the Department of Education recommend minimum goals of educational achievement, minimum requirements for curricula, minimum standards for teachers? I assume that the answer would be no, because if it were to be yes, then this would amount to Federal intrusion into those areas which have traditionally been left for local or State control. If the answer is yes, then it seems to me that is a commanding, compelling reason why this bill must be defeated.

So, Mr. President, I come to the conclusion that the justification that is offered for this bill, that it will produce more efficiencies and streamline the organizational structure, could be achieved through other means. I think that the reason behind this bill is the belief of its proponents that if we have a new, Cabinet-level Secretary, he will have the ear of or access to the President of the United States and, thereby, have a greater opportunity to secure more funding for education than is currently being received.

If that is the case, I think we have to ask the question, what has been the history of the Congress in appropriating funds? If more money is to be appropriated at the Federal level in order to reduce the local property tax burden, is there anyone in the Senate that believes that more Federal control will not accompany that request for Federal dollars? I suggest, respectfully, that the enacted. Taxes would have been higher. Things have been done for the community that they knew were needed and it was only done with three requirements: A public hearing, a report on what was done, and that they obey the Federal law regarding nondiscrimination. It was just that simple.

So we have proved that it can be done. The Senator from Illinois hopes we shall work in this department toward one of our earliest objectives from the standpoint of a legislator, which would be to work toward block grant programs, away from all these categorical programs. We should see if we cannot find a way to do this in a simpler manner than we have in the past.

I point to that one exception, and I will admit that it is an exception. But it is the exception that might prove the rule for the future.

I hope that is so. I appreciate very much the distinguished Senator's bringing up what is generally the tendency of the Federal Government, but I hope this will be the second exception to prove the rule in this case.

Mr. COHEN. I thank the Senator for his comments. I, indeed, support his observations about the benefits of the general revenue-sharing program under which Federal funds are distributed to State and local goverments without strings attached.

I would, however, point out that it is my understanding that the program is in deep jeopardy right now as a result of some substantial opposition to it. I hope I can join with him to preserve the revenue-sharing program for the benefit of the States and local communities.

I simply respond to the Senator by saying that the revenue-sharing program does not need a large bureaucracy to administer it. That was one reason we adopted it. In the legislation before us today, we are setting up a new bureaucracy to administer educational programs, yet we do not include all educational programs.

It seems to me that to create a new institution, a new building, a new Secretary, a new organizational staff for the stated purposes of consolidation when, in fact, the bill does not really consolidate, for management efficiency when those efficiencies could be achieved in other forms, is not sufficient justification to take that great leap of faith in this particular instance. I urge rejection of the bill.

Mr. President, although I disagree with the distinguished chairman of our committee on the merits of this bill, I think that he has been most fair in his treatment of me during our deliberations on this issue. I want to take this opportunity to thank him for his courtesies.

I thank the Senator for yielding.

Mr. MATSUNAGA. Mr. President, I rise in strong support of S. 210, a bill to establish a Cabinet-level Department of Education.

The need for a U.S. Department of Education continues to intensify as Congress, in response to public demand, enlarges this Nation's investment in education programs by providing schools

Congress, too, would benefit from the creation of an executive Department of Education, since it would then be able to deal with educational problems more comprehensively and systematically. The concentration of Federal education policies and programs within the purview of the new Department would foster improved oversight and assessment of education in our Nation.

Mr. President, I submit that a Cabinet-level Department of Education would be better able to devote its full attention and resources to achieving a national education program of the highest order, and would well establish the Federal commitment to education.

I urge expeditious passage of S. 210.

I thank the Senator from Illinois for yielding.

Mr. NUNN. Mr. President, the establishment of a separate Department of Education has been a priority of mine since I was elected to the Senate in 1972. It is with a great deal of pleasure that I again express my strong support for this legislation prior to the vote on this measure by the full Senate. I would like to express my sincere appreciation to the chairman and ranking minority member of the Governmental Affairs Committee for moving expeditiously on this legislation early in the 96th Congress. It was a great disappointment to me, and I know it was to many of my colleagues, that there was insufficient time for the House of Representatives to act on this measure in the 95th Congress after it received the Senate's overwhelming en-

definitive details on how this proposal will actually result in lower costs over the next few years. For example, Mr. McIntyre explained that this reorganization will eliminate enough duplication to reduce employment in the new Department by 350 to 450 positions, saving $15 to $19 million in salaries. Transition costs are expected to run approximately $10 million which will be met by current appropriations and even these costs will be offset by personnel savings.

Mr. McIntyre further pointed out that by the streamlining of unncessary duplication and fragmentation in the current structure for issuing regulations that 15 offices will be eliminated from the clearance process and that it will take approximately half the time presently needed for regulations to be cleared and funds to reach needy school systems. He also stated that the number of offices involved in the preparation of the education budget would be reduced from 25 to 10 and that the number of offices involved in creating legislative proposals would be reduced from 19 to 9. All of these efforts will not only result in more expeditious action on important proposals and programs, but also in more accountability with fewer people actually involved in the process.

Mr. President, I believe that the creation of this new Department with a Cabinet-level Secretary is an essential step in our efforts to streamline Federal education programs and reduce fragmentation, duplication, confusion, excessive regulations, and paperwork. But the and colleges with greater financial and technical assistance. In order to promote the most effective and efficient administration and management of many wide-ranging Federal education programs, I believe the time is ripe to formalize our national education priorities and establish a Department of Education.

Mr. President, our Nation has witnessed an enormous expansion of Federal aid policies and programs to education. For years, the Federal Government, operating through the Office of Education, has shouldered the prime responsibility of assuring that the vast opportunities and resources created by our system of public and private education are equally open and accessible to all citizens. That responsibility, however, is becoming increasingly more complex and more difficult to bear because of the fragmented Federal structure which impedes the orderly and strong delivery of education assistance to State and local agencies. By organizing and channeling the Federal education efforts through a central Department of Education, we can move toward more clear-cut education directions and priorities.

I believe the creation of a Department of Education would be highly beneficial to all those concerned with the education of our Nation's citizens. The Department would assure overall coordination and direction in the allocation of the billions of dollars being invested in education. Such a department would provide an orderly and focused means of avoiding duplicative effort and wastage of precious tax dollars.

dorsement last September. But I believe that this early Senate action will give the House ample time to thoroughly review this proposal, and I am optimistic that the Department of Education can become a reality this year.

On numerous occasions over the past 6 years, I have expressed to this body and my constituents my many reasons for supporting this proposal, and I do not feel that I need to reiterate all of these now. I would like to point out, however, that one of the major purposes for this reorganization is to streamline the Federal education bureaucracy, decrease fragmentation and eliminate duplication of effort and confusion for our local school systems and institutions of higher education. There is nothing in this reorganization legislation that would increase Federal control over education—to the contrary, very specific language was placed in this measure to prohibit such an increase in control. What this reorganization will accomplish, in my view, is to place our Federal education programs in the limelight, with a Cabinet-level Secretary who must be accountable to the President, the Congress, and the people of this nation.

Another very important accomplishment of this proposal is an ultimate reduction in costs for the administration of our educational programs. Many critics of the new Department allege that it will result in increasing costs; however, in testimony before the House Committee on Government Operations, James T. McIntyre, Director of the Office of Management and Budget, gave mere establishment of this new Department cannot, of itself, accomplish all of our much needed goals. I strongly believe that the Secretary of Education, with his increased visibility and authority, can work with the President and the appropriate congressional committees to develop realistic and workable programs for consolidation of overlapping and duplicative programs and the curtailment of excessive and burdensome paperwork. This need is a subject which was discussed during the markup of S. 210, and a number of my colleagues on the committee share this concern. The committee report also addresses this need in the following manner:

> The Senate Committee on Labor and Human Resources is presently conducting a study on the possible effects of a proposed consolidation of certain educational programs. This Committee believes that this study is a proper step in the consideration of measures which look toward the improvement of educational services to our nation's youth and adults. This Committee instructs the Secretary of Education to work closely with the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor to develop proposals which will eliminate unnecessary duplication of programs, paperwork and regulations while maintaining effective and strong efforts to equalize educational opportunities for our citizens and provide needed service for our nation's youth. The Committee believes that it is important that the new Department of Education with its Cabinet-level Secretary stimulate a much needed discussion on the future course of our educational programs.

I have had the pleasure of working with Senators DOMENICI and BELLMON on a consolidation proposal which has been the subject of the study by the Senate Committee on Labor and Human Resources over the past several months. I am hopeful that the new Department and the results of this study will serve as a basis for a continuing dialog and concerted efforts to improve our Federal educational services. I firmly believe that providing more local control and flexibility for the implementation of our Federal programs is a positive approach to our educational goals. I know that the educators in my State are not looking for ways to circumvent the intent of the Federal law which is to provide equal educational opportunities for all of our citizens. Rather, they are frustrated in their efforts to achieve these goals by conflicting rules and regulations and quirks in the law which prohibit them from actually serving needy children. I feel that through cooperation and concerted efforts, we can formulate realistic approaches to consolidation without jeopardizing equal opportunities. I strongly urge the Committee on Labor and Human Resources to make this a priority. If we can streamline our education administration and provide more accountability through the establishment of a Department of Education and allow much needed consolidation through the regular legislative process, I will be very optimistic that we can enter a new era of cooperation, understanding, and excellence in our educational systems.

Mr. PERCY. Mr. President, the distin-

us another year to consider the implications of creating this new arm of the bureaucracy. Unfortunately, I still believe we have not studied this issue enough to know whether or not we need this new Department. This is the reason I intend to introduce an amendment at a later time to provide for a thorough study of this Department's creation. But this is something that I will discuss later.

The inclination to have a Federal Department of Education has been a perennial concern among many since at least 1867, when then Congressman James Garfield succeeded in passing legislation to do so. This non-Cabinet Department was quickly downgraded and renamed the Bureau of Education, and much later the Office of Education. Its purposes were to collect statistics and periodically report on the condition of education, a function performed for the next 100 years.

The New Deal provided for a change in Federal policy and a transformation of public attitudes toward the Federal role with respect to functions that had until then been considered exclusively State, local, or private. We have, since that time, increased the Federal role in education every year with a variety of new programs.

However, even with the increased Federal participation in our education system, we still have serious problems to be solved. But whether or not these problems could be solved by creating a separate Department is something I want to

locality. They are usually problems of the classroom itself and the education of the teacher.

Our schools' curricula have moved away from the basics of education—reading, writing, and arithmetic—and into a more self-conscious role.

Attempts to consolidate agencies are most seductive. The presumed cost savings from administrative consolidation and the limitation of duplicative programs and services are the benefits mentioned by those who propose the consolidation. But I am not sure that the purpose of this proposed new agency would not be forgotten in the excitement of creating a new Department. Creating a new Department of Education is an attractive idea at first glance. However, I doubt if creating a new Department would necessarily prove helpful to the existing difficulties in education. We have previous experience that is proof to us that a new Department does not a problem-free territory make. The Department of Housing and Urban Development is hardly a model of efficiency, even though it is the focal point for a narrow field of issues. There are other examples, too, such as Labor, Commerce, et cetera. Having a separate Department does not necessarily help the situation. The problems in our education system, and the stagnation within HEW will not be eliminated by reshuffling organizational structure. The essence of good government is not the specifics of organization, but the imagguished Senator from California has been very patiently waiting to make his comments, which are valuable comments since he is a former distinguished educator. I understand the comments will take about a half hour. This side of the aisle has taken up quite a bit of time. The distinguished Senator from Michigan has asked for a period of about 5 minutes.

Would it be the wisdom of the Senator from California that the Senator from Michigan should precede, or is there some time problem that the Senator from California has that would not permit that?

Mr. HAYAKAWA. I have some time problems, too, and I have yielded for Senator COHEN and others. So if the Senator from Michigan will excuse me, I would like to go ahead because I do have something else scheduled.

Mr. PERCY. I thank my colleague. I see the graciousness of my distinguished colleague from Michigan will enable me with an eased conscience to go ahead.

As I understand it, the Senator's comments will take about half an hour. We will try then to proceed with the Senator from Michigan.

Mr. HAYAKAWA. I thank the Senator for yielding.

Mr. President, the Senate is once again considering legislation to create a separate, Cabinet-level Department of Education. My colleagues will recall that last year the Senate passed this legislation, only to have the House postpone its consideration until this year. I must say that I think this was a very wise decision on the part of the House Members. It gave them and discuss today. Certainly, when we consider some of the problems we have, it does not automatically lead us to the conclusion that we need this new Department. It is true that since HEW was established in 1953 our education budget has zoomed sky high. It is also true that we have more than our fair share of problems in our education system that seem to be worsening, not improving. And certainly it is true that HEW is awkward in size and behavior. But this does not point us to a separate Department of Education. Yet here we are, considering legislation to create yet another Federal agency. President Carter made a campaign pledge to support and secure passage of a Cabinet-level Department of Education; he is so far holding true to his word. If judging by last year's vote count is any indication, many of my colleagues want this Department. I think it is a bad idea, and I will not support its passage.

Mr. President, I have been involved in education all my adult life. I started as a teaching assistant in 1930 and I retired as president of San Francisco State University in 1973. Therefore, I have been 43 years in education, which is longer than some of my junior colleagues have been on Earth.

Having been involved in education most of my adult life as both a teacher and an administrator, I know firsthand the problems in education that need solving. However, I think these problems can be handled, and ultimately eliminated, at the State and local levels.

Indeed, I can go even farther and say they are problems of the classroom, not even of the school board of the ination and talent brought to the problem.

As I said before, I have been involved in education most of my life. Having been a college president, I know all too well that many administrative annoyances are the results of Federal mandates which have to be borne by State and local school officials. Now, some of these laws and regulations from Washington are good ones, created with genuinely good intentions. However, so many Federal mandates have been imposed on State and local governments in recent years that they have become more of a nuisance than a help. The biggest problem is the time and paperwork required to implement them.

The biggest headache is the number of orders we get to do that which we have been doing for decades in systems like San Francisco State College and the California State University system.

After having served in the U.S. Senate for more than 2 years, I can see how we in Congress operate to create and enact these laws. We come up with these grandiose schemes to improve the quality of life in any number of ways. After our proposals are approved by our colleagues and passed, however, we forget about them, we have little more to do with them—except to answer the cries for help from outside the Government, from officials in our States and citizens. It is a far easier job to conjure up an idea and enact it into law than it is to implement it and reconcile it with already existing laws as they apply within a given number of States. One of my biggest complaints is that we in Congress have pushed education—the reading, writing, and arithmetic portions—away from the mainstream, and placed bureaucracy at the forefront.

It has always amazed me how many people who are employed by educational systems do not do any teaching at all. There are all kinds of consultants and curriculum coordinators, dietary consultants and psychological consultants, and all sorts of people who do not face the classroom at all. Then we mourn about the decline of education.

Our schools now have so many rules and regulations to cope with that they cannot possibly give full-time attention to the business of teaching. This is one of the reasons why so many of our children leave school knowing little more than is required, and sometimes not even that.

I remember when Wilson Riles became superintendent of public instruction for the State of California some 8 years ago. He hoped that as a result of his administration, high school graduates in the State of California will have at least the equivalent of an eighth grade education. That was a hope. It has not been achieved as yet.

We force our schools these days to focus on things that have little to do with the basics of education. We have courses in sex education and driver education. We have busing. We have bilingual education. We worry about psychological adjustment. We worry about all kinds of things that are secondary to the principal functions of learning tools thing else, and education should be offered at no less a level.

What guarantees are there that removing education from its present house would necessarily improve the quality of education? Claims of improved policies, streamlined operations, and better programs are wonderful; but I think this can be done within the present structure of HEW, with maximum effort and work from us and the administration.

I recall yet another one of President Carter's campaign pledges. This one was to cut back on Federal bureaucracy, trim the Federal budget, and reduce the number of Federal agencies, consolidating as many as possible into a more workable structure. I fail to see how creation of a separate department helps to cut down the bureaucracy, or the number of Federal vehicles.

The presumed cost savings from administrative mergers and the elimination of duplicative programs and services are the benefits mentioned by those who propose any such meldings. But I do not know why people want education separated from health and welfare. They are all three important social programs, which is why they were combined in one department in 1953 by President Eisenhower. The precedent for these three subjects to be housed in one agency was set by Franklin Roosevelt, who transferred these areas into the Federal Security Agency in 1939 as part of the New Deal. The three have worked as well as any bureaucratic programs have, and I The Cabinet is meant to act as the conduit between the executive branch and the localities to discern the best possible systems for all involved. I think that rather than removing a poorly functioning area from a larger entity, such as HEW, we should correct the area's malfunctions and proceed from there. Separation does not automatically make for better organization or operation. We must clean up our mistakes as they stand before we try to set it free to continue with the same mistakes.

Another fear I have is the risk of this department becoming a creature of its patrons. That patronage is not necessarily the schoolchildren and parents most affected by HEW policies; but, rather it could be the National Education Association the powerful lobbying organization of teachers and school administrators. During his campaign for the Presidency Mr. Carter promised the NEA that he would ask for creation of a separate Department of Education. In return for this the NEA formally endorsed Carter's candidacy which marked the first time it ever backed a Presidential candidate. Thus it is possible that this Department could be a branch of the NEA serving only one segment of education. It is significant that the teachers union of the AFL-CIO is opposed to the creation of this Department. That segment—that is, the NEA—would be teachers, not pupils, because the NEA's stated purpose has always been to serve teachers.

with which to get an education and to continue getting it after you finish with school—that is, learning to read and write and compute.

Our schools spend so much time attending to these demands that they simply do not have the time to devote to teaching the basics. Many are just too busy making sure that they are complying with the new Federal regulations. Anyone who tries to tell me that creating this new department will eliminate bureaucracy must be talking out of both sides of his mouth. The people we place in this new department will have to justify their existence somehow. How will they justify it? The way they do in all bureaucracy—enlarge them. I predict that this new department will create, larger and larger body of regulation, a lager and larger body of regulation, of which we now have already too many. The only difference is that these regulations will come from a separate agency rather than from HEW.

We must get our priorities back in order. We send our children to school to make sure they get a good education, but we take valuable time away from teaching by adding bureaucratic responsibilities. We cannot continue to issue new regulations, supposedly for the good and growth of our children. We harm not only the young people, who are missing out on the best of education, but, also, we hurt all of society. These young people must eventually filter into society and cope with their problems. We hurt them by denying them the best education possible. America offers the best of every- do not see why this change is considered by so many to be imperative.

An example brought to my attention regarding the proposal of a new department is what would happen if we were to separate all the different military services from under the Department of Defense. Would the Army, the Navy, or the Air Force function any better if this were the case, if they were not part of the same Department? Would it be an improvement to have each of them reporting to a different Secretary?

Another argument in favor of a Department of Education is that it will force more Presidential attention to it. The Carter education budget has been fair; it does not show any signs of neglect of education. As long as the dollars flow into education, and attention is paid to the important issues, why the urgency for a new department? Right now, there exist at least 426 separate education programs, over which 18 of 22 standing House committees and 16 of 18 Senate committees carry jurisdiction. At least 70 of the over 200 subcommittees in both Houses also have some education responsibilities. No executive restructuring will affect this overlapping of program responsibilities.

Many believe our education policies should become more future oriented. Many of our schools are floundering, because they have no good example to follow, no direction to take. The reasoning behind creation of departments like HEW, Interior, State, and the rest was to create a central point to which all others could look for direction and guidance.

This is an important point, too. All this time, whenever I hear debates about the pros and cons of this new Department, there is an outstanding group of characters whose presence seems always to be forgotten—that is, the students. They are, I presume, or should be, the benefactors of any improvement in education. After all, is it not the purpose of whipping into shape our education policies to better serve our young people? I keep hearing these arguments for and against this new Department—and I am including myself as a participant—and we seem like parents fighting over custody of the children in a divorce. As often happens, the fight is not over the children at all, but merely between the parents. The children are rarely the real cause behind the fighting, but certainly bear the brunt of the ugliness. This is the way it seems here, too. One side fights against increased bureaucracy; another side fights to give "special" attention to education. All the while, it is the students who suffer from our lack of imaginative, thoughtful education policies, because we are all tangled up in this kind of bureaucratic dispute.

We must force ourselves to deal with the present confusion of programs, jurisdictions, and problems within HEW. Rather than tackling these outside of the already existing Department of Health, Education, and Welfare, I think we should reexamine the Department as now operates. Would problems within HEW be better handled or solved if we had a Department of Education? Would our schools and students be better taken care of by simply moving to another building the same policies, the same administrators, and the same framework? I think not. I do not see how this reorganization would revitalize and restore quality to education.

If the cosmetic change of moving to a separate department placates some of my colleagues, then so be it. I just hope that more people will take a second look at the proposal before they jump on the bandwagon and push for this new move. I have a couple of ideas that we should think about before passing S. 210.

First, in 1972, Congress mandated a division of responsibilities between an Associate Secretary for Education and a U.S. Commissioner of Education. If we removed this division, perhaps education activities within HEW could be more effective.

Second, we should examine the present Federal administration of education programs and see how they can be made better. Many people believe a reduction of the permanent education staff and its replacement with a rotating team of education professionals with temporary appointments is one idea.

Then you can get input from the State of Washington, the State of California, the State of Florida, and the State of Pennsylvania, and people going in and out on temporary appointment can add to the intellectual storehouse of education.

Another idea is a semi-independent is too large, but only because of increasing expenditures voted by Congress. It is more efficient management, not a separation of functions, that is needed to better manage and coordinate health, education, and welfare functions. The Cabinet is already too large and overwhelmed by conflicting demands for Federal dollars and priorities.

Sixth. There is no evidence that such a separate department would increase coordination and accountability. It would most likely create a stronger, self-perpetuating bureaucracy of "professional educators" pushing for more Federal funds for education. As to accountability, the separate department would most likely respond to the National Education Association, school administrators and teachers, rather than its obvious constituency—students and taxpaying parents. It would become "a creature of its clientele." (The Washington Post, April 18, 1978.) A legitimate question is: "Do we need another single constituency Cabinet department like 'agriculture,' 'labor,' or 'commerce'?"

Seventh. A new separate department of education would not necessarily give a higher national attention to education. The Office of Education handles the administrative aspects of education programs. It is the emphasis by a President and the funds voted by Congress which determines how much focus and emphasis are put on education.

Eighth. It would be a boom to groups like the National Education Association be a big boost for education bureaucrats seeking control of all education funds and especially those who wish a stronger Federal role in State and local education efforts at the elementary and secondary level.

Twelve. Upgrading the status of education might better be served by creating an undersecretary of education within the present structure of HEW, rather than an entire new department.

Thirteen. A separate department might deemphasize or "bury" some of the special function education programs—schools for American Indians in the Department of the Interior, and education loans for veterans in the Veterans' Administration. Those programs would be the first cut in favor of the larger programs with stronger pressure groups; that is, elementary and secondary school aid, loan assistance for students in higher education.

Fourteen. The head of the new Education Department—like other Cabinet officials—is likely to be a political appointee rather than a professional educator; that is, Commissioner of Education. A Cabinet Secretary of Education is likely to be unduly subjected to political pressures, thereby diminishing his objective attention to genuine educational needs.

But basically I believe the structuring or restructuring of a department does not make it much better or much worse. Those involved in the workings of the department are what should be consid-

Federal Advisory Commission on Education, which was proposed by a former Director of Administraation at HEW, Rufus Miles, Jr.

I have a list of reasons why we should not have a separate Department of Education.

ARGUMENTS OPPOSED TO A SEPARATE DEPARTMENT OF EDUCATION

First. The separate Department would isolate education and encourage various education pressure groups to lobby for higher Federal expenditures for education.

Second. It would have a tendency to dominate education at the State and local level since all power and programs would be concentrated in a single agency. It would be similar to a Federal "school board."

Third. It would create difficulties for private schools since the education bureaucrats, likely to be strong supporters of public education, would make all key decisions without the diversity of decision presently available through scattered education programs benefiting students in public as well as private schools.

Fourth. There is no more reason to give education a separate department than there would be to give other functions of the Federal Government a separate department. If so, we might as well have a Cabinet Department of Social Security, International Trade, Immigration, et cetera. The problem presently with setting Federal policy is too much fragmentation of functions; more coordination of Federal functions is needed.

Fifth. The present HEW Department which could focus all efforts on continual expansion and more funding for Federal involvement—and control—over education. It would be giving the NEA its own governmental department.

Nine. A new layer of bureaucracy—gathered in a separate Department of Education—does not guarantee a better education program. The only "growth industry" which will be evident will be a growth in the administrative personnel of such an agency. The Department of Energy and the Department of Housing and Urban Development are excellent examples of how new departments can grow to enormous size in a relatively short time without any notable improvements in functions or efficiency.

Ten. Education is still primarily a State and local function, and a separate department would encourage further dependence on Washington, D.C., for funds, programs, administrative directions, priorities, et cetera. A separate department would be similar to a European style "Ministry of Education" which could control what is taught in our schools. A separate department with its own constituency would make it harder to reduce expenditures and programs. It would make it harder to limit Federal expenditure growth and to achieve a balanced Federal budget.

Eleven. It would likely benefit programs desired at the elementary and secondary school level (handled largely through the Office of Education) rather than higher education programs (handled via medical and scientific research programs outside HEW). It would ered. If those people with responsibilities for making the department run smoothly understand its workings, and its priorities, and care enough to follow through on promises and needs, then organizational structure should not play so important a role. Indeed, those who want a new Department of Education would not feel compelled to ask for the creation of one. Only when people are dissatisfied with a situation do they want to change it. Creating a new department would not necessarily solve the present problems in education, but to many people it is a ray of hope.

In short, I think that Secretary Califano and Commissioner Bover should progress with internal reforms in the Office of Education and within HEW. The independent and semi-independent agencies which have higher education programs should be assessed and judged by performance.

We in Congress should count ourselves among the problems endured by HEW. We continue to throw program after program at HEW—as I said before we enact these laws, then throw caution to the wind, and we think no more about them until we get complaints from our constituents. Sometimes I cannot help but think that is it any wonder why we have such problems? And is it not amazing that we are doing as well as we are?

America does not have, nor does it need, a central house of education. The diversity resulting from local and State-centered education is a source of America's strength as even the proponents of this measure have argued' This diversity is not it's weakness. I believe a Department of Education is unneeded and would add little to quality education at any level.

Mr. President, very soon the Senate will consider S. 210, legislation to create a separate, Cabinet-level Department of Education. With three of my colleagues, we circulated pertinent materials relating to the effects this new department could have on our education system. This material, I hope, will enable many of my colleagues understand what could happen should we enact this misguided legislation. In this same regard, I want to continue to apprise my colleagues of the opinions of various qualified people who have expressed their opposition to this legislation.

During the last session of Congress, the Senate voted in favor of this new department. However, the House of Representatives wisely decided to let the issue go until now. The fact is—despite the loud and pious calls for a Department of Education on the grounds that it would streamline the system—to date there is an enormous lack of information on and awareness of the effects of such a consolidation on the actual beneficiaries, the students.

The idea of separating education from our Department of Health, Education, and Welfare by reestablishing it as the 13th Cabinet-level department has been around for years. On paper, proposals to consolidate agencies have a most seductive quality about them. Presumed cost

Chancellor Dumke expressed his views in response to the introduction of bills in both the Senate (S. 210) and House of Representatives (H.R. 2444) for a national super agency in education.

The 19 CSUC campuses enrolling more than 300,000 students comprise one of the nation's largest higher education systems. Some $66.8 million from federal programs were channeled onto the campuses in 1977-78, including $50.6 million in student aid funds.

"We are told that greater efficiencies will ensue from establishment of a single new department, and that prestige will rise by having an education secretary on the cabinets of U.S. Presidents," Chancellor Dumke said.

"These claims at best are conjectural. Immediate improvements for higher education would range from scant to zero, yet an unneeded agency would be created whose top seat is the obvious reward for lobbyists and interest groups with exceedingly narrow views."

Although most CSUC federal involvement is with the U.S. Department of Health, Education and Welfare (part of which would be the nucleus for the new Education Department), many programs participated in by the campuses are administered by other government entities.

These, to list a few, include the Department of Agriculture, the U.S. Geological Survey, National Science Foundation, Small Business Administration, NASA, the Army Corp of Engineers, Office of Naval Research, the Department of Energy, the Bureau of Land Management and the Veterans Administration.

"Many federal programs undoubtedly should be reorganized," Chancellor Dumke

national product—was spent nationwide last year on education.

Yet an enterprise of this magnitude is represented at the Federal level by officials who are four and five levels below Cabinet status. Perhaps this is the reason that several Presidents have had difficulty recruiting national leaders to serve at the Federal level in education, and the explanation for the amazing turnover in the position of U.S. Commissioner of Education—14 different Commissioners in the last 13 years. With that limited tenure, it is remarkable that a Commissioner even learns all the programs administered by his agency before he leaves the job. And, of course, this lack of stability can only have a detrimental effect on the administration of Federal education programs.

Only two organizational entities in the world have budgets larger than that of the Department of Health, Education, and Welfare—the Governments of the United States and the Soviet Union. In fiscal year 1980, HEW's budget will break the $200 billion mark—nearly 40 percent of the total Federal budget. Of this, nearly 95 percent will be spent on health and welfare programs, the remainder on education ($13 billion). Is it any wonder that the Secretary of HEW is forced to spend the great bulk of his time on health and welfare matters, neglecting education decisions? This would not happen if we had a Secretary of Education to give his full attention to education policy.

savings from administrative consolidation and avoidance of program duplication are among the benefits cited by proponents of this new department.

I would like to submit for the RECORD a statement issued by Chancellor Glenn S. Dumke of the California State University and Colleges. Chancellor Dumke speaks with experience and authority on the possible results and disadvantages of creating this new department. Because we sorely need to hear more about what is wrong about setting up a new branch of the Government in the form of a separate Department of Education. The Federal Department of Education is not a solution to the terrific problems plaguing education. Nothing has been produced that leads to the conclusion that a new Education Department could produce good results any better than our present structure.

I urge my colleagues to read Chancellor Dumke's fine statement. His thoughts are concise and sensible, and I hope that my colleagues will give his comments the serious consideration deserved.

I ask unanimous consent that this statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF CHANCELLOR GLENN DUMKE ON CREATION OF DEPARTMENT OF EDUCATION

The creation of a Cabinet-level U.S. Department of Education today was opposed by Chancellor Glenn S. Dumke of The California State University and Colleges.

Not only would such a federal department lack benefits for higher education, but the stage would be set for an unwarranted and politicized "Ministry of Education," he said. "but the test should be on their worthiness rather than on simply reassembling them to justify a governmental super agency.

"Similarly the formulation of non-conflicting regulations and coordination of civil rights enforcement, though of compelling necessity, do not require a new officialdom in order to proceed.

"As one who has evaluated the scene in other countries, I am not moved by Vice President Mondale's intimation that the U.S., as the only major industrial democracy that does not have a department or a ministry of education, should somehow catch up with other nations.

"The hallmarks of most foreign education ministries are elitism and centralization in which someone in control adjusts the throttle in accordance with perceived national needs of any given moment.

"I cannot believe this is the approach the United States should take. Problems and inadequacies exist but state and local provisions which have resulted in 75 percent of this country's children being graduated from high school, and more than 11 million enrolled in higher education, represent a level of accomplishment unequaled among the sizeable nations of the world."

● Mr. PELL. Mr. President, I strongly support the enactment of S. 210, a bill to create a Department of Education. I was proud to be one of the original cosponsors of this legislation, both in this Congress and in the last. As the cliche would have it, it is "an idea whose time has come."

Education is, today, one of our Nation's largest enterprises, involving directly more than 60 million Americans. Total education spending in the United States today exceeds that spent on national defense by one-third. More than $145 billion—nearly 10 percent of the gross

I have heard concerns expressed that a Federal Department of Education would inevitably lead to Federal control of education. I believe these fears to be groundless. Current law prohibits Federal control over schools and colleges, and this legislation would continue the prohibition. Direction of our educational system would remain in State, local, and institutional hands. After all, changes in Federal policy would have to be voted by the Congress, and I do not anticipate that any of us would be sympathetic to shifting control over education to the Federal level.

Creating a Department of Education would result in a manageable agency which could be expected to operate more efficiently than is possible in the sprawling HEW bureaucracy. The Secretary of Education would be accountable to the Congress for his actions. The same cannot be said about current education officials, who are buried beneath layers of HEW officers not subject to congressional review.

Full-time attention to education problems can also be expected to cut down on the waste and fraud in education programs which has been documented by the HEW Inspector General. The result, as Director of the Office of Management and Budget McIntyre testified, will lead to improved management of Federal education programs. In addition, substantial amounts of Federal paperwork will be reduced, as they will have to travel through far fewer layers of bureaucrats, all eager to have their "input" into regulations and guidelines.

For these and many other reasons, I strongly support the Department of Education. I hope to see it become a reality during this session of Congress.●

● Mr. SASSER. Mr. President, I am pleased to join Senator ABRAHAM RIBICOFF and a number of other Senators in cosponsoring S. 210, the Department of Education Act.

The organization of the Department of Education addresses many of the chief concerns that the Congress has about overgrown, cost-inflated bureaucracy. Several features of this legislation relative to cutting the cost and size of the bureaucracy are particularly important to note. There is no new budget authority provided for education programs included in S. 210 and no new programs are created by the legislation. The legislation brings together existing programs and reduces their administrative costs by consolidating such functions as planning and evaluation, budgetmaking, policymaking, management, and handling legislative and public affairs. The Office of Management and Budget estimates that, over the long term, the savings from the establishment of the Department of Education may be as high as $100 million.

"Bureaucratic creep" is not likely to infest the Department of Education. The legislation establishes a mechanism to limit the growth of personnel for each new fiscal year. Initially, when the Department is established, OMB estimates that as many as 450 positions could be

During hearings on S.210, the Office of Management and Budget, in response to questions I posed about General Accounting Office reports of large numbers of unresolved internal agency audit reports at the Office of Education, stated that there were 1,069 unresolved audits from the Office of Education in March of 1977, questioning tens of millions of dollars. Most were over six months old. The situation had not improved markedly by December of 1978, when there were still 583 unresolved Office of Education audits. The OMB has, however, assured the Senate Governmental Affairs Committee that the agency intends to be directly involved in the development of a more effective audit function for the Department of Education.

The OMB also responded to my questions regarding the Comptroller General's report that more than $4 billion in accounts receivable are not outstanding for the Office of Education. This figure, incidentally, equals roughly one-third of the Office of Education annual budget. The OMB has come to recognize that the current amount of outstanding debt is unacceptable. The OMB has assured the Committee that the Department of Education will develop an improved system tailored specifically to the education loan and grant programs which have the capability of monitoring the loan accounts more closely and recovering funds more rapidly than is now the case with HEW.

The third area of concern about which I questioned OMB relates to their plans to improve deficiencies identified by the Comptroller General in a series of seven reports over the past ten years in the area of financial controls for the Student Loan Insurance Fund. The OMB indicated that the Office of Education is now looking at recommendations about improving the Student Loan Insurance Fund accounting system which

that the creation of a separate department leads to more effective communication among local, State, and Federal officials. Education policymaking is an intergovernmental matter. It is of utmost importance that the establishment of a Federal education agency provide for the systematic involvement of, and consultation with, Governors, State legislators, mayors, council members and other State and local government officials.

In drafting S. 210, particular attention has been paid to the issue of specifically stating that the major responsibility for education lies wiht the State and local government. The legislation specifies intergovernmental policy functions to be carried out by the Undersecretary for Education so that all activities of the Department will have an intergovernmental perspective.

Mr. President, I again want to praise my chairman, Senator RIBICOFF, for his unbending commitment to the better education of our Nation's children. He has been a tireless advocate of this legislation, which I have been proud to support since coming to the Senate in 1977. I hope that this year we will finally see the Department become law.●

● Mr. PRYOR. Mr. President, I would like to express my support for S. 210, which establishes a new Department of Education. After several days of hearings on the subject and careful deliberation, the Governmental Affairs Committee has favorably reported S. 210, the eliminated by doing away with duplication and overlap of functions. In addition, and perhaps most important, the 30 principal offices and officers who now administer programs which will be transferred will be reduced in number to only 11.

In my floor statement on the introduction of S. 210, I stated that my major objective was to provide better management for Federal education programs. During subsequent Governmental Affairs Committee hearings, I pursued the concept of establishing better, more cost-effective management within the new Department. Toward that end I questioned the Director of the Office of Management and Budget, Mr. James McIntyre, about specific problems which the GAO identified in the financial management systems which currently exist at the Office of Education. I submit my additional views on this topic, which were submitted for the staff report on S. 210 by the Committee on Governmental Affairs:

ADDITIONAL VIEWS

When S.210, The Department of Education Organization Act, was introduced in the Senate, I stated that my support for the new department was based primarily on its potential to improve the management of Federal education programs. Toward that end, I would like to draw attention to the need for improvement in the financial management systems which currently exist at the Office of Education generally and, specifically, regarding the deficiencies in unresolved internal agency audit reports, the unacceptable level of outstanding accounts receivable and the poor financial controls of the Student Loan Insurance Fund.

were developed by an Office of Education Task Force.

In general, the OMB has given assurances that in its efforts to deal with the transition of programs to the new deaprtment, it will develop more effective financial management systems for the Department of Education than those which now exist at the Office of Education. It is obvious that in the past the financial management aspects of these programs have been inadequate and management has exerted too little control. I am hopeful that the new department will significantly improve the over all financial management of these programs and that the Committee on Governmental Affairs will hold the appropriate administration officials accountable for the assurances they have given in testimony before the Committee.

Setting up a Department of Education will give OMB an excellent opportunity to establish an improved financial management and audit system for education programs. Other ways to improve management efficiency should be explored as programs which are now scattered and fragmented are transferred into the new Department.

The Congress can more effectively carry out its oversight responsibilities when programs for education are gathered together in a single department. By giving a Cabinet-level Secretary both the authority and responsibility for education, the Congress can fix accountability for the success or failure of education programs.

I would like to address another area which I believe will be improved by the proposed organization of the Department of Education. As chairman of the Senate Intergovernmental Relations Subcommittee, I particularly want to see Department of Education Organization Act. As a cosponsor of this legislation, I have shared the concern of many of my constituents and my colleagues regarding the role of State and local governments in our educational process.

Today, I would like to commend Senator RIBICOFF, Governmental Affairs Committee chairman, and sponsor of the bill, for his efforts in addressing this concern. The language of the bill and the committee's report leave no question about the intent of the committee in creating a Cabinet-level Department of Education. The committee report uses very strong and specific language in outlining the Federal Government's responsibility in assisting State and local education agencies in carrying out statutory and State constitutional responsibilities. The purpose of the bill is to supplement not supplant the prerogatives and rights of States and local governments in determining educational programs, a matter which I personally feel very strongly about. Education is, and will remain, a State and local responsibility.

The role of the Federal Government is described in the following language from the committee's report:

> Education in the United States has traditionally been a function of the State and local governments and private institutions. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent.
>
> The intention of S. 210 is to preserve this prerogative. There is a need to ensure that the federal presence in education should be supportive, helpful and effective.

The importance of State and local control of education and the need for Federal involvement is explained in the following committee language:

> The committee believes the establishment of the Department of Education will not adversely affect or diminish State, local, and private control of education in the United States. In fact, the Department is needed to ensure that the federal government remains a partner in the educational process, and that it does not supplant State and local rights in education.
>
> From the birth of the United States through today, responsibility for education has rested primarily in the hands of the State and local governments, public and non-public institutions. State and local control is institutionalized in this country. It is the key to the outstanding success of the American educational system, as compared with other industrialized nations where education is centralized in national ministries. Local control is deeply imbedded in the fabric of American society, and cannot be changed through the simple act of giving education cabinet status at the federal level. At least 38 percent of the funds for public education already come from State and local governments.
>
> In its study of the operation of federal education programs, the committee has found an elaborate system of checks and balances to resist federal encroachment in education. Continuously, education and State and local interests check and monitor proposed and existing rules, regulations, and data requirements. But, as programs continue to fragment and operate without direction or coordination, they threaten to destroy this delicate system of checks and balances. Educators, parents, and State and local governments cannot pinpoint the responsible of Education, I am most pleased that S. 210 has reached the Senate floor today, and hope for its prompt passage. The Senate Governmental Affairs Committee deserves high praise for its commitment to the bill and for its successful effort to bring it to the floor early in the 96th Congress. I want to commend particularly my able colleague, Senator RIBICOFF, for his perseverance and leadership in this area.

Free public education in this country as provided through combined local, State and Federal effort is perhaps the single most important domestic program in the country. It constitutes a $120 billion public and private enterprise, representing 6 percent of the gross national product of this country in 1978. Federal expenditures have increased tenfold from the early 1960's to more than $6 billion today. We are speaking of 60 million students, teachers, and educational employees who are directly affected.

Thus, education is a major enterprise in this country, and a fundamental part of our Nation's welfare. It is built around complex relationships between local, State, and Federal roles. While basic education programs are primarily a State and local responsibility, the Federal Government has a major policy role in higher education, vocational education, and elementary and secondary education. Federal policy has been primarily aimed at providing support for students whose education costs more than the average per pupil expenditure, such as handicapped, bilingual, and educationally and by passage of the Optional Education Consolidation Demonstration Act which Senator BELLMON and I will be introducing in the very near future.

I am aware of the fact that many of my colleagues, including members of the Governmental Affairs Committee, have expressed doubts that reorganization at the Federal level will address the nightmare of Federal program administration at the State and local levels. The large number of programs with different funding cycles, separate needs assessments, proposals and reporting requirements, and different sets of rules and regulations have seriously eroded the effectiveness of the programs.

Senator BELLMON and I will be addressing this important aspect of education through our bill to provide States with the option of developing an overall State plan to demonstrate the effectiveness and feasibility of more successfully providing educational services through consolidation and simplification of various Federal programs. This program, combined with the additional emphasis and attention to education through the creation of a separate Department of Education, can mean substantive changes in the quality of services received by our Nation's students.

I am an advocate of education. I believe our children are the greatest resource of this country. Just as individual children need attention from their parents and teachers, so education needs priority attention from the Federal Government. I believe Congress should es-

> federal officials, and much accountability is lost. The end result will inevitably be more federal encroachment. These educators, parents, and State and local governments will find a Department of Education more accountable, and more responsive to their needs. These checks and balances will operate more effectively if there is one, visible, and readily identifiable education position—the Secretaryship of Education. This community of people concerned about federal education services will interact with one Cabinet Secretary, instead of several lower level officials as is now the case.

As the report explains, the bill was amended to explicitly state the creation of a Department of Education "shall not increase the authority of the Federal Government over education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments."

In addition, S. 210 creates an Intergovernmental Advisory Council, consisting of representatives of local governments and State education organizations, and serving as a vehicle for the review of existing and proposed regulations in the new Department. The Council will assure participation by State and local officials in the coordination of intergovernmental policies and programs affecting education.

For these reasons, I support S. 210 as reported from the Governmental Affairs Committee and I would encourage my colleagues to join with me in efforts to achieve Senate approval and enactment.●

● Mr. DOMENICI. Mr. President, as a long-time supporter of legislation to create a separate, Cabinet-level Department economically disadvantaged children.

Unfortunately, the Federal role in these areas has been hampered by the lack of priority accorded to education within the bureaucratic structure of the executive branch.

Education currently resides in the same Department of Government responsible for social security reform, welfare reform, and creating national health insurance. Attention to education policy obviously has an ambiguous position on the totem pole in HEW. One Department simply cannot be effectively responsible for so many major administrative areas.

I believe that the Department of Health, Education, and Welfare has been remiss in its education dealings with the Congress and with the clients it purports to serve—the local and State education agencies of this country and the children, young adults, and adults these entities represent.

Education has not received in the past and is not now receiving in HEW the consideration which must surely be given to an endeavor as important socially and economically as education.

A reorganization which recognizes the importance of education in our country is desperately needed if we are to ever make sense of the current unmanageable state of education. Education must be reorganized at the Federal level, and services provided by Federal education programs need to be reorganized at the State and local level. S. 210 will accomplish the reorganization at the Federal level. Reorganization of services at the State and local level can be accomplished tablish that priority by creating a separate Department of Government.●

Mr. GLENN. Mr. President, during the past few years of discussion on a proposed Department of Education, I have had the opportunity to meet with a number of Ohio groups interested in this subject. These meetings have included teachers, parents, principals, and State and local officials. Despite the minor differences in their positions and variation in their perspectives, all of them have been united in their concern for quality education. They share the primary goal of providing the best possible instruction for our Nation's youth. In the process of examining the proposal to create the Department of Education, I have also met with and examined testimony of Federal officials working in education.

What was of some surprise to me was the fact that the concerns of Federal officials here in Washington were actually very similar to the concerns of teachers in Cleveland, parents in Columbus, and to school officials in Cincinnati, Toledo, and Dayton. Where then was the source of their problems, their disagreements, their apparent differences? In time, it became clear to me that a large part of the problems which my constituents in Ohio were having with Federal officials in Washington were problems rooted in the organization of education. There were few fundamental discrepancies in their basic philosophies or in their commitment to providing good educational services. Problems arose from the fact that education programs in the Federal Government are spread out over various departments including Labor, Justice, and Defense, as well as Health, Education, and Welfare. Even within HEW, education has overlapping and conflicting lines of authority and responsibility.

It has been difficult to focus on the real problems of education. The basic concerns of reading, writing, and arithmetic, as well as science, humanities, and art are in an organizational web of education programs. The concerns of the students and of learning which should come first are sometimes second to bureaucratic differences over jurisdiction, opposing regulation, and duplication of effort.

Now we have before us for consideration a bill to create the Department of Education. From its conception, this idea has been alternately proclaimed as a panacea for the problems of education and as the final blow to an already weakened endeavor. In my opinion, this bill will do neither of these things. What it will do is provide us a means whereby we can refocus on the problems of education. We can examine the problems in a new and more focused light. The creation of the Department of Education is an attempt to cut through some of the confusion surrounding education. It is an opportunity to redefine the organization of education at the Federal level.

An important feature of this bill is that it can help to improve relations in the field of education between the Federal Government and State and local governments. This is evidenced in the

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Connecticut yield me time?

Mr. RIBICOFF. I am pleased to yield to the distinguished majority leader.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, this request has been cleared with Mr. Ribicoff, Mr. Percy, Mr. Stevens, the distinguished assistant Republican leader, with Mr. Helms, Mr. Schweiker, Mr. Moynihan, Mr. Schmitt, Mr. Morgan, and other Senators. It is as follows:

Mr. President, I ask unanimous consent that there be 7 hours' time for debate on the pending bill to be equally divided between Mr. Ribicoff and Mr. Percy; provided further, that there be 1 hour on any amendment in the first degree, with the following exceptions; 2 hours on an amendment by Mr. Schweiker; 2 hours on an amendment by Mr. Morgan; 90 minutes on each of two amendments by Mr. Helms; 4 hours on an amendment by Mr. Moynihan; one-half hour on any amendment in the second degree; 15 minutes on any debatable motion, appeal or point of order, if such is submitted to the Senate or if debate is entertained by the Chair; and that the agreement be in the usual form; on the bill so that action, final action, is not completed prior to the recess.

Of course, the time is so short that cloture would be ineffective. The majority leader recognizes that fact, and so in recognition of that fact, I am seeking the time agreement with the assurance to the distinguished acting Republican leader that the Senate will not complete action on this bill prior to the recess.

Mr. STEVENS. I understand.

Mr. ROBERT C. BYRD. I am also expressing, in return, my hope that Senators will be willing to call up their amendments, however, today, Monday, and Tuesday so that the Senate can dispose of amendments.

Mr. STEVENS. Let me assure the distinguished majority leader of our attempt to fully cooperate in that objective to bring up for consideration meaningful amendments prior to the recess. But because of the strike, particularly affecting Senators from the Far West, it is necessary for us to have some idea of when the majority leader would intend to request that we recess for the Easter recess.

Mr. ROBERT C. BYRD. Yes, I will be glad to answer that question.

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. The distinguished acting Republican leader has mentioned this to me heretofore. The strike by United certainly is creating a problem for Senators who are seeking to secure reservations for the West, as he provisions for the creation of the Intergovernmental Advisory Council on Education. This Council is composed of the Under Secretary of Education and 24 members from outside of the Federal Government. The members will be State and local officials, representatives of higher education, as well as parents, teachers, students, and public interest groups. The Council will be charged with the responsibility for assessing the impact of Federal policies on education, and it will have responsibility for making recommendations to the Department of Education to improve Federal relations and programs with State and local government. This Council in conjunction with the stated responsibilities of the Under Secretary to coordinate intergovernmental relations should help to alleviate many of the problems which have plagued education in the past.

The creation of the Department of Education can be a major step in making more efficient use of the programs already established by Congress. It will reassert the commitment of our Nation—at all levels of government—to provide equal access to quality education for all of our citizens. Finally, it will give to education the prominence which it deserves within the Federal Government.

The future for our children and our Nation depends on it.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, and, provided further, that if action is not completed on the bill—and I do not anticipate that it will be—before the Easter holiday, the bill will be again made the pending business immediately following the disposition of the first Concurrent Budget Resolution which, it has already been agreed upon, will be the pending business upon the Senate's return from the holiday recess.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, it is my understanding that the amendments that were specifically mentioned for Senators Helms, Moynihan, Schweiker, and Morgan were to be excluded from the usual form?

Mr. ROBERT C. BYRD. The Senator is exactly correct with respect to germaneness.

Mr. STEVENS. It is my understanding that while it might be possible to finish before the recess, that it is the majority leader's understanding that there are people on this side who have the feeling it will not be, that it will not occur, so could I inquire from the majority leader what this would mean about the problem of terminating the action of the Senate prior to the recess now if this agreement is entered into?

Mr. ROBERT C. BYRD. Yes, I will be glad to answer the question.

I am aware that the bill will not pass before the recess. It is within the means of Senators, if they object to this—and they can object to this and, of course, it is within the means of Senators who wish to delay action on this bill to accomplish that purpose, and I understand that that is the case—that they can delay action says, and so I would say this in response to the Senator: If Senators will get over and call up their amendments today, Monday, and Tuesday—we are not going to be in tomorrow—call up their amendments today, Monday, and Tuesday, we will go out on Tuesday, at the close of business on Tuesday. Otherwise, I would like to stay in on Wednesday.

Mr. STEVENS. I will pursue this with the majority leader. In order to get these reservations, it is absolutely essential to say whether you want them for Wednesday or Thursday, and I am sure the majority leader realizes there are not many planes going with United on strike, so it becomes a most difficult problem for those of us from the West.

Mr. ROBERT C. BYRD. Let me say to the Senator that he is always most cooperative and understanding of my problems and I am understanding of his. I will say now Tuesday night at the close of business, but I hope Senators on both sides of the aisle would call up amendments in the meantime so that the Senate can be acting on amendments today, Monday, and Tuesday. This will enable us, once the Senate disposes of the first concurrent budget resolution, to get on with the passage of the bill with the amendments that have been listed having been disposed of, hopefully, prior to the holiday.

Mr. STEVENS. I can assure the Senator of our desire to work that out, and I will talk to each of those Members, to see if we can get the amendments called up either today, Monday, or Tuesday, and have votes on at least some of them prior to Tuesday evening.

I can hopefully say for those people from the West who wanted to make reservations to leave Wednesday then they can do so.

Mr. ROBERT C. BYRD. The Senator may say that. Mr. President, I do not know when the adjournment resolution will be prepared for the holiday, but in any event the Senator has my word that, barring an emergency that we do not foresee at the moment, and it would not be with respect to this legislation, but except for an emergency, the Senate will go out at the close of business on Tuesday.

Mr. STEVENS. The distinguished majority leader is very generous. I would be happy to have an understanding that if we pursue this as we outlined, at least there will be no votes on Wednesday. Going out Tuesday will be fine, but I think we have to reassure the people who want to leave here Tuesday night, Wednesday morning, or Wednesday afternoon.

Mr. ROBERT C. BYRD. Well, put it this way: I will offer an adjournment resolution on Tuesday, at the close of business on that day to recess over until after the holidays.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. That way, Wednesday is out, but I am waiting for Tuesday to see if Senators will come over and offer amendments.

Mr. STEVENS. I thank the majority leader. I understand his position.

Mr. PERCY. Mr. President, will the majority leader yield for a question?

and if not today, to have a vote, by agreement, on Monday.

Mr. HELMS. Yes.

Mr. STEVENS. We have an agreement for yielding time on the bill. We are not sure how much time would be used off the bill on that amendment.

Mr. ROBERT C. BYRD. Yes. The reason I am saying to call up today and dispose of one of his amendments, if we could—they are his amendments, and only he can make that judgment—is that we have 58 Senators on this side of the aisle. We had 59; one went by the way at 2:30, but we have Senators waiting——

Mr. HELMS. I will be glad to call it up and have a vote on it.

Mr. ROBERT C. BYRD. And then maybe he can call up the other and we can make it the pending business for Monday.

Mr. HELMS. I will be happy to cooperate.

Mr. RIBICOFF. Mr. President, if the Senator will yield, the Senator from Montana has an amendment awaiting disposition.

Mr. HELMS. Oh, I am sorry; I did not know that.

Mr. ROBERT C. BYRD. I thank the Senator from North Carolina. He is always cooperative and understanding, and his action today is characteristic of his attitude.

Mr. HELMS. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank all Senators for their cooperation in securing the agreement.

Federal Interagency Committee on Education to coordinate support functions located in related Federal agencies, into a unified family education approach to better serve the needs of our Nation's rural economically disadvantaged families.

For many years now, those of us representing States with large rural constituencies have been aware that most of the Federal programs that have been created to break the cycle of structural poverty in the United States have been of little benefit to the rural poor. The nature of the problem lies not in the substance of the programs, but in the nature of their delivery. Authority for administering the programs is divided up, bureaucratically, with very little coordination at the point of delivery.

One office concentrates on vocational and occupational education, another on education for home management, another on adult basic education, another on special education for children, yet another on health education, and so on down the line. Such fragmentation has been possible in dealing with urban populations because of the close geographical proximity of the families that take part—although even here I think many of our planners are beginning to realize that without better overall coordination the result is unnecessary overlap of some programs and gaps between others. This reduces the beneficial impact on the families that take part, and leads to waste and inefficiency.

But what is an inconvenience in an

Mr. ROBERT C. BYRD. Yes.

Mr. PERCY. Taking into account, now, that we have to cover as many amendments as we can today, Monday, and Tuesday; that the bill would be put over then, until completion of action on the first concurrent resolution; does the majority leader have any estimate as to how long that action would take, so as to determine when we would have final action on this measure?

Mr. ROBERT C. BYRD. I do not know. I believe under the law it would be a maximum of 50 hours, which would be 5 10-hour days. I would assume the Senate would take 2 or 3 or 4 days on it, but it would be a maximum of 50 hours.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. STEVENS. Mr. President, may I inquire again if it would be possible to have one of the amendments of the Senator from North Carolina called up today, and have the vote on that occur on Monday?

Mr. ROBERT C. BYRD. The distinguished Senator from North Carolina has two amendments. Could he call up one today and have a vote on it, and then call up the other one and have a vote on it Monday?

Mr. HELMS. I think that would be possible. I have some of the stuff still in the typewriter, but——

Mr. ROBERT C. BYRD. The Senator has offered, and I think graciously so, to call up at least one of his amendments today, and if possible get a vote today,

UP AMENDMENT NO. 68

(Purpose: To provide for a unified approach to rural family education)

Mr. MELCHER. Mr. President, I have an amendment at the desk which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 68.

On page 86, immediately after the period on line 13, insert the following:

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 86, immediately after the period on line 13, insert the following: "The Secretary, through the Assistant Secretary for Occupational, Adult, and Community Education shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies."

Mr. MELCHER. Mr. President, the amendment that I am offering today does not create any new Federal programs. It does give to the planned Office of Occupational, Adult, and Community Education the specific authority to coordinate existing educational programs scattered throughout the new Department of Education and work with the urban setting becomes an insurmountable difficulty in rural areas. For example, in Montana vocational educational schools are often hundreds or more miles apart, as are adult education centers, counseling centers, child development centers, career education centers, and so on. More important, it seems never to be the same hundred miles. Often our rural disadvantaged do not even have the ability to seek out and find help when the services are so fragmented and geographically scattered. These problems are not unique to Montana. I am sure they exist throughout much of rural America, and they require attention if we are not to continue to discriminate against our rural families.

In Montana, we have tried to meet some of the needs of rural disadvantaged families in our State, as well as North Dakota, South Dakota, Wyoming, Nebraska, and Idaho, by providing an integrated family education program in a residential setting. The key concept which governs this approach is that the families are brought together in a residential setting, and a broad range of educational and supporting services are provided—treating the entire family as a unit.

The families, recruited from within the six-State region, take up residence in existing facilities on what used to be Glasgow Air Force Base near Glasgow, Mont. They reside there for approximately 9 months while they take part in an educational program designed to meet the needs of the entire family.

This includes vocational education

and career education for the head of household (and sometimes the spouse as well), education in home management and parental responsibility, consumer education, basic adult education, elementary and secondary education, health education, and special education programs when needed.

As you can see from this list we offer the student families the entire range of educational services to be included in the new Department of Education. Central to this entire approach is the concentration of services and the focus on the entire family as a productive and mutually supportive unit.

The program has, we believe, been very successful on the limited level that we have been able to maintain it, without the support of a coordinated Federal effort. It is an approach which goes beyond the traditional concept of "job training."

Treating the educational needs of the entire family together in a residential setting represents an effective way to not only improve employability, but also increase the standard of living and participation in the community for disadvantaged families.

The viability of this approach has long been recognized by those in close contact with it. It has received strong support during its 7 years of existence from the Governors of the region, the congressional members of the six States, the regional governmental councils, the agencies within the region and, most important of all, from the student families who participate.

sands of rural families that may be helped by better coordination at the Federal level. I urge my colleagues to support this amendment.

Mr. RIBICOFF. Mr. President, as floor manager of the bill, I know of no objection to the amendment. I believe it is an excellent amendment, and I support it. It would not result in any additional cost or new programs; it would simply authorize the Department to use its existing resources to coordinate and fund existing rural programs.

I urge its adoption.

Mr. PERCY. Mr. President, the amendment offered by the distinguished Senator from Montana is an important amendment. A more unified approach to rural family education is greatly needed. In addition, it is important to note, as the floor manager mentioned, that this proposal adds no new programs or spending authority. I am pleased to support it.

Mr. MELCHER. I thank the distinguished floor manager and the ranking minority member.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. MELCHER. I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The Sen-

Many people have raised the legitimate fear that the creation of a Federal Department of Education would lead to increased Federal control of education, and a gradual erosion of control of education at the elementary and secondary levels by the State and local governments. I have submitted for inclusion in this legislation a number of provisions of both a policy and an institutional nature to protect against that.

Mr. President, it is not only a direct frontal attack on State and local educational prerogatives that, in my judgment, we must protect against. There are more subtle and insidious ways in which the Federal Government could and perhaps already is impeding the efforts of State and local education authorities to address their own problems as they see them in their own way.

One way which is particularly worrisome to me is the imposition of an excessive regulatory burden by the Federal Government, which cannot only tie the hands of local officials in carrying out programs, but may also require so much manpower to comply with that personnel or funds have to be diverted away from programs to cope with the burden of regulation.

In the hearings on this bill, I asked OMB Director McIntyre for specific documentation of how the creation of this Department would eliminate or positively affect its regulatory and redtape problem.

In his response, Mr. McIntyre noted that in the existing structure similar

This approach has also begun to gain national recognition. President Carter has called for more attention to the development of a sound American family. In announcing the White House Conference on Families, he stated that—

> The main purpose of the Conference will be to examine the strengths of American family life, the difficulties faced, and the ways in which family life is affected by public policies.

The President proclaimed that—

> Government policy should be aimed at strengthening and supporting the family as our most vital and enduring social resource.

This is a laudable goal and I wholly support it. However, I do not think that we must or should wait until 1981, or after, to take the first step to see that our disadvantaged rural families have full access to the kinds of educational services that can help to improve all facets of their lives. The Office of Occupational, Adult, and Community Education is the right place to coordinate a family educational approach. The Government Affairs Committee's report states that a major mission of the Office of Occupational, Adult, and Community Education the authority to assist in meeting the needs of the rural family as a unit, and to coordinate efforts from all sectors of the Department of Education and other related agencies to accomplish this goal.

My amendment is a modest request in light of the dozens of programs and some $14 billion of authority to be assigned to the new Department of Education—however, it is vitally important to thou-

ator from Michigan.

Mr. LEVIN. Mr. President, I rise to express my support for the legislation we are considering today, to establish a Cabinet Department of Education. I would particularly like to commend the chairman (Mr. RIBICOFF) for his continuing support for a Department of Education. Senator RIBICOFF has been seeking to accomplish this objective since he initially introduced such a measurer in the 89th Congress, and has worked ceaselessly toward its fulfillment since then. Senator PERCY has also made his usual extraordinary contribution to this effort. I hope and expect that in this Congress, the 96th, their labors will reach fruition.

Mr. President, the Federal Government has a vital and undeniable interest in the quality of our educational system at all levels, and in all parts of the country. I say that without in any way diminishing the primary responsibility for education at the elementary and secondary levels, which rests and must continue to rest in the hands of the State and local governments.

But any national government that does not make the pursuit of the highest quality education for its citizens a first-order priority is abdicating one of its most important responsibilities.

So long as the Federal education function remains buried and overwhelmed in the massive Department of Health, Education, and Welfare, with little visibility, little clout, and lots of disorganization, I do not believe we can truthfully say that quality education is a high priority at the Federal level.

functions are being duplicated by various offices at several levels of the bureaucracy. Regulations issued by the Department must currently pass through so many steps and be reviewed by so many people that in 1978 the average time lapse between initial planning for regulations and their final publication in the Federal Register was 519 days, and in one case reached a maximum of 1,296 days.

According to Director McIntyre, under the Department of Education we estimate that the time devoted to the promulgation of regulations can be decreased by approximately 3 months. Regulations that accompany program directives will be in the hands of State and local educators sooner, and more efficient and effective planning will result at the State and local level.

In the consideration of this legislation this year, the committee agreed to an amendment I proposed which was intended to focus the new department's attention on this problem. It would require the Secretary of Education to report annually to the Congress on progress made toward the reduction of unnecessary duplication and fragmentation in Federal education programs, and, where steps for the accomplishment of those objectives exceed the Secretary's administrative authority, to submit legislative recommendations to the Congress for furthering those goals.

The Governmental Affairs Committee has expressed in its report the hope that the Secretary will work closely with the congressional committees having jurisdictional responsibility on ways to reduce the regulatory paperwork burden in a manner that will not weaken program administration or dilute our efforts to provide equal educational opportunity for all our citizens. I believe that this is one of the most critical goals which the Department must pursue, and I hope we can make rapid progress in that direction, Mr. President.

Mr. President, I ask unanimous consent that my question to Mr. McIntyre and his response be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

QUESTIONS FROM SENATOR CARL LEVIN

Question 1. Mr. McIntyre, you, along with the other panel members, agreed to provide me and the Committee with a list of the "specific fragmentations, which exist, the regulations which exist which are either excessive or abused, and the red tape which exists . . ." that would be eliminated or positively affected by the creation of the Department of Education.

Answer. Federal leadership, policy-making and program administration in education is currently scattered among the Office of the Secretary of HEW, the Assistant Secretary of Education, the Office of Education, the National Institute of Education and the programs and functions to be transferred to the Department. This has resulted in similar functions being duplicated by various offices at several levels of the bureaucracy. For example, there are currently at least 10 units within the Office of the Secretary of HEW, the Office of the Assistant Secretary for Education, the Office of Education and the National Institute of Education which perform

missioner for Resources and Operations and the Commissioner of Education. (84 days)

Critique—within program bureau.

Preclearance—Office of Education, Assistant Secretary for Education and Office of the Secretary offices.

Concurrence—Office of Education offices only.

Final regulations follow the process described for the Notice of Proposed Rulemaking except the critique session is not held. (103 days)

The Office of the Secretary requires an average of 52 days to complete the approval process for a Notice of Proposed Rulemaking and 49 days for final regulation. In all, the Office of the Secretary accounts for approximately 20 percent of the time required to promulgate regulations. As many as 20 offices may review a major regulation once it leaves the Education Division. It should be reiterated that for the most part these reviews are conducted simultaneously.

During 1978, the Office of Education published 21 final regulations. It took an average of 519 days from the first day of planning for the regulations to the day they were published as final regulations in the Federal Register. The shortest time for this process was 220 days; the longest time was 1,296 days; 10 regulations took between 450 and 550 days.

Under the Department of Education, we estimate that the time devoted to the promulgation of regulations can be decreased by approximately three months. Regulations and accompanying program directives will be in the hands of State and local educators sooner, and more efficient and effective planning will result at the State and local levels.

Similar duplication and delays characterize the budget process. Once the Office of Education develops a budget request, a min-

be one of the most rapidly revolving doors in the entire Government. In the last 12 years, there have been 13 commissioners of education, an average term of service of less than 1 year. The problem has not been one of talent, or commitment, or dedication; rather, the organizational complexities have proven so stubborn and intractable that they have hindered or even defied efforts to improve the content and quality of educational programs. To illustrate, let me cite briefly the testimony of the current commissioner, Dr. Ernest Boyer, before the Governmental Affairs Committee. In discussing his own experiences, he stated:

> To put the matter as pointedly as I can, the current organization is indefensible. Good management requires that we streamline the structure, not because it would look nice on paper, but because it would benefit enormously school superintendents and college presidents who are confused and often frustrated by the system and because it would deliver services more effectively to the students to be served.

And to continue,

> My own satisfaction in the job reflects the quality of the people, not the structure—and progress has been made not because of the organization, but in spite of it. Given a different HEW climate, the Commissioner of Education could be bureaucratically buried, and I do not believe leadership in education should be left to the accidents of friendly or unfriendly supervision.

As a final compelling testimonial to the organizational need for a Departpolicy development, planning and evaluation functions. The Administration bill allows the Secretary to assign these functions to a single principle officer. Existing units can be consolidated under this officer, resulting in improved management and efficiency.

Over a year is spent developing reauthorization proposals. Legislative proposals must be reviewed by as many as seven units (excluding subunits) once they leave the Office of Education. The review process is time consuming as education proposals must compete with important health and welfare initiatives, e.g., national health policy, welfare reform and social security for the Secretary's attention. Under the Department of Education, the Secretary's attention will be focused solely on education issues. Duplication in the several layers of the HEW bureaucracy would be eliminated and the time frame for the legislative process will be substantially reduced.

The regulations process is equally fragmented and time consuming. The essential steps in the regulations development process and the average number of days required are as follows:

A Regulations Issue Memorandum is prepared in the Office of Education by program staff for review by the Program Deputy Commissioner and the Executive Deputy Commissioner for Education Programs. (25 days)

A Regulations Proposal document is reviewed by the Assistant Secretary for Education, and the Staff Assistant Secretaries in the Department and other departmental offices (42 days)

Special Memoranda for the Secretary and Under Secretary are frequently required to provide an early warning on sensitive matters contained in the provisions of the proposed regulations, or to obtain decisions on issues raised by the regulations.

A Notice of Proposed Rulemaking goes through three clearance steps prior to the approval by the Executive Deputy Commissioner for Education Programs, and then a maximum of six offices (excluding subdivisions of these offices) within HEW must review and amend the request. As part of this process, tradeoffs are made between the education and health and welfare budgets. This tradeoff function would be assumed by the Office of Management and Budget under a Department of Education. Education budget issues can be discussed directly with the Executive Office rather than through intermediaries in HEW.

Mr. LEVIN. Establishing an education department will place it on a par with other departments whose missions are to further vital national goals and interests, such as national defense, economic stability, equal justice, public health and so on. Not only is education no less important than these other goals, but in fact the maintenance of a successful educational system will help insure that we continue to make progress toward their fulfillment, through an educated leadership and an educated citizenry. Moreover, Federal spending on education already exceeds the budgets of five existing cabinet departments: State, Justice, Commerce, Interior, and Energy. We are already devoting substantial resources to education, but without the status, visibility or accountability to enable us to receive the greatest return on our investment. A Cabinet Department will give education the stature it deserves, in proportion to its importance and to our investment in it.

The administrative and bureaucratic problems that have been created by the current chaotic structure of the Federal education establishment are dramatically illustrated by the fact that, in the Office of Education, we have what must ment of Education, I would offer the comments of Health, Education and Welfare Secretary Califano, the man who currently has the ultimate responsibility for education in the Federal hierarchy. We all know that, traditionally, when reorganization of executive branch departments are proposed, they are generally opposed by those who would lose programs or personnel under their control. However, Secretary Califano has given unqualified support to the removal of education from HEW. In his words—

> The President's proposal to give Cabinet-level status to education recognizes our stake in good teaching, and seeks fresh impetus for our shared hope that every child will realize his or her native abilities to the fullest measure. The President's recommendation seeks also to improve the ability of citizens to understand, and local schools and communities to work with the Federal Government in a more fruitful and less burdensome partnership for education.

In conclusion, I believe that we need a Federal Department of Education, and I believe that this legislation represents a carefully-considered vehicle for establishing such a department and furthering the manifold objectives of our education programs without disrupting our valued and long-established tradition of State and local control of the American educational system.

I yield the floor.

Mr. RIBICOFF. Mr. President, I believe the Senator from North Carolina (Mr. HELMS) has an amendment he wishes to call up.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 69

(Purpose: To restore the right of voluntary prayer in public schools)

Mr. HELMS. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 69.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE VII—VOLUNTARY PRAYER IN PUBLIC SCHOOLS

SEC. 701. (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provision of sections 1253, 1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.".

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by adding at the end thereof the following new same right and privilege to millions of schoolchildren across this Nation.

Mr. President, one would think that if the legislators of this country are entitled to ask for divine blessing upon their work, then so are schoolchildren. However, the Court has ruled to the contrary and in so doing has overturned more than 200 years of American custom. Indeed, the Supreme Court has even ruled that schoolchildren may not read the prayer of the House or Senate Chaplain as printed in the CONGRESSIONAL RECORD as a beginning to their school day.

Mr. President, the interpretation of the first amendment used by the Supreme Court to strike down this practice of the American people, distorted the intent and language of the first amendment. The Justices of the Court held that a voluntary, nondenominational prayer constituted a violation of the "establishment of religion" clause of the first amendment. The Court's interpretation of the first amendment indicated not only what must be interpreted as an animosity toward the effect of religion in the public life of our Nation, but also a misunderstanding of its historic role.

In February, the Senate once again assembled to listen to George Washington's Farewell Address. Washington brought the unique experiences of his service as first President of the United States, as Commander of the Continental forces during the War of Independence, and as President of the convening in the public schools and 13 authorized the saying of the Lord's Prayer.

The first amendment provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." In *Engel v. Vitale*, 370 U.S. 421 (1962), the Court prohibited a requirement of the New York State board of regents that each class begin the school day with the following prayer:

> Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.

In *Abington School District v. Schempp*, 374 U.S. 203 (1963), the Court struck down a Pennsylvania statute requiring the reading of at least 10 verses from the Holy Bible without comment and the saying of the Lord's Prayer at the beginning of each school day. In a companion case, the Court invalidated a Maryland requirement concerning the reading of a chapter of the Holy Bible and/or saying the Lord's Prayer.

In each case, the Court ruled that voluntary school programs including Bible-reading or prayer violate the establishment clause of the first amendment. In Engel, Justice Black wrote:

> the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government. (370 U.S. at 425)

item:

"1259. Appellate jurisdiction; limitations.".

Sec. 702. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction.".

Sec. 703. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is there a time limitation equally divided on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, this morning as we joined with the Chaplain of the Senate, Dr. Elson, in prayer, as we do each day the Senate is in session, I could not avoid the irony that while we in the Senate begin our day's activities by asking God's blessing on our efforts, the Supreme Court has effectively denied this tion which wrote and presented the Constitution to the States for ratification. He rejected the narrow opinion that religion must be excluded from the public life of the Nation. In his final counsel to the Nation, Washington warned that:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, Washington's view has indeed been the mainstream of the legal and social attitude of the American people and the drafters of the Constitution in regard to the religious rights preserved in the Bill of Rights. Professor Edwin S. Corwin, one of our most distinguished constitutional scholars, rejected any interpretation of the first amendment which would force upon government institutions a formal agnosticism. Professor Corwin writes:

> The historical record shows beyond peradventure that the core idea of an "establishment of religion" comprises the idea of preference; and that any act of public autority favorable to religion in general cannot, without manifest falsification of history, be brought under the ban of that phrase.

THE SUPREME COURT DECISIONS

Nearly 200 years after the drafting of the Constitution, the Supreme Court for the first time ruled that prayer and Bible-reading in public schools encouraged by the State constitutes an establishment of religion in violation of the first amendment. At the time of these decisions, 26 States permitted Bible reading

In Schempp, Justice Clark concluded that the Bible-reading programs:

> Are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion. (374 U.S. 203)

Mr. President, the point is this: In both rulings, the Court went beyond the language of the establishment clause to construct an interpretation of it which would overturn the long-standing State practices.

In Engel, Justice Black asserted:

> Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion . . . The Establishment Clause thus stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate. (370 U.S. 431-32)

Mr. Justice Clark argued in Schempp that the Court had previously "rejected unequivocally the contention that the Establishment Clause forbids only governmental preference of one religion over another." (374 U.S. 216) He maintained that the establishment clause must be considered together with the free exercise clause, and that they impose on government a "wholesome neutrality" toward religion—whatever that is. In Justice Clark's view, the first amendment prohibits Government from any action favoring one religious sect over all others, or religion in general over nonreligion.

Mr. Justice Clark, meanwhile formulated a new standard by which to measure legislative action regarding the first amendment:

> The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition or religion the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the structures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. (374 U.S. at 222)

The Court maintained that even though the prayer and Bible-reading activities were voluntary, this did not prevent them from violating the establishment clause. In Engel, the Court held that:

> The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not. (370 U.S. 421)

COURT'S INTERPRETATION—SHEER INVENTION

Thus, the Supreme Court reached a position which earlier the highest court of New York State had concluded "is so contrary to history as to be impossible of acceptance." Constitutional scholars also took issue with the Court's new interpretation. For example, Prof. Charles Rice of Notre Dame Law School found that the Court interpreted "the establishment clause in abstract and oversimplified terms, doing violence thereby that at the time of the drafting of the first amendment:

> The general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state so far as was not incompatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions and to make it a matter of state policy to hold all in utter indifference, would have created univeral disapprobation, if not universal indignation.

COURT IGNORED HISTORY

The first amendment provides that Congress shall make no law respecting an establishment, let me emphasize that word—an establishment of religion. Those assembled at the Constitutional Convention did not arbitrarily choose the phrase "an establishment of religion." There was much history behind the term. Not only did England and Scotland have an established church, but five of the States which later adopted the first amendment had establishment churches as well.

In the Engel and Schempp opinions, the Court ruled that the phrase "establishment of religion" really meant not just the creation of a national church, but any government action dealing or touching religion. To cite Mr. Justice Clark's new test outlined in Schempp, the "primary effect" of any governmental act must not "advance religion."

Yet, it is just this view of what the first amendment should provide that the authors of the amendment specifically rejected. During the Constitutional Con-

Nine days later President Washington issued the Thanksgiving proclamation. Could any action more clearly indicate the intent of the authors of the first amendment regarding its establishment clause and Government-encouraged public prayer? The framers of the Bill of Rights clearly rejected the doctrine imposed upon the Nation in their name nearly 200 years later when the Supreme Court demanded that "in the relationship between man and religion, the State is firmly committed to a position of neutrality."

A threshold issue presented in the Engel and Schempp cases was whether the establishment clause of the 1st amendment could be applied to the action of State governments through the 14th amendment. The Court rejected a historical analysis of the meaning of the 14th amendment and relied on unsupported assertions. "First," wrote Justice Clark, "this Court decisively settled (that the establishment clause) has been made wholly applicable to the States by the 14th Amendment." For proof, he cited an opinion of Justice Roberts in Cantwell against Connecticut. The difficulty here is that the Cantwell case does not deal with the establishment clause and therefore does not settle anything at all. Thus the fundamental issue before the Court was disposed of by hypothesis.

Here again, an open historical inquiry would have led to a result far different than that of the Court's. The framers of the 14th amendment them-to the history and informed logic of the first amendment" and Erwin Griswold, Dean of Harvard University Law School, viewed the Court's holding as "sheer invention."

The Court reached its holdings in Engel and Schempp by way of a myopic and narrow view of the history of the Constitution. Only by a thorough distortion of the work of the authors of the Constitution is it even remotely possible to arrive at the sweeping condemnation of America's spiritual heritage presented in the Court's opinions.

Professor Rice, writing in the South Carolina Law Review, put it this way:

> It has been incorrectly asserted, by the Supreme Court and others, that the establishment clause ordained a government abstention from all matters of religion, a neutrality between those who believe in God and those who do not. An examination of the history of the Clause, however, will not sustain that analysis. Its end was neutrality, but only of a sort. It commanded impartiality on the part of government as among the various sects of theistic religions, that is, religions that profess a belief in God. But as between theistic religions and those nontheistic creeds that do not acknowledge God, the precept of neutrality under the establishment did not obtain. Government, under the establishment clause, could generate an affirmative atmosphere of hospitality toward theistic religion, so long as no substantial partiality was shown toward any particular theistic sect or combination of sects.

Mr. Justice Joseph Story, who served on the Supreme Court from 1811 to 1845 and who was a contemporary of the framers of the Constitution, maintained vention, the delegation from New Hampshire proposed that the first amendment should read: "Congress shall make no laws touching religion . . ." Needless to say, that language was rejected.

An elementary rule of statutory construction provides that when a legislative assembly rejects language which has a broad application and substitutes in lieu of it language with a specific, narrow application, that the legislative intent is [illegible] exclude the broad aplication. Had the proposal that Congress make no law "touching religion" been accepted, it would undoubtedly have prevented Congress from doing much more than establishing a national religion. If applied to the States, it undoubtedly would have prohibited the type of prayer at issue in the Engel and Schempp cases. However, it is equally clear that this broad language was rejected and that Congress viewed the official encouragement of voluntary prayer, even on the national level, as not to be contrary to the first amendment's establishment provision.

On September 24, 1789, the first Congress passed a resolution requesting that the President "recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness." Congress passed this resolution calling for a national day of prayer on the same day on which it adopted the first amendment to the Constitution.

selves did not intend, nor did they believe that the amendment would prohibit the States from encouraging prayer in public schools. How else can one understand the serious attempt by some in Congress only 7 years after the ratification of the amendment to amend the Constitution once again to prohibit the State establishment of religion. If the 14th amendment was intended to do this, why would those who had just adopted it propose to do it again?

The answer is that the 14th amendment did not apply the establishment clause of the first amendment to the States. Only a distortion of both amendments and their history permits such an applicaiton.

In part, the 14th amendment provides that no State "shall deprive any person of life, liberty, or property, without due process of law." Before its decisions in the Engel and Schempp cases, the Court had applied other aspects of the Bill of Rights to the States through the 14th amendment by asserting that the word "liberty" as used in the amendment included all the liberties included in the Bill of Rights. Hence the liberties annunciated in the Bill of Rights could be protected from encroachment by the States.

But as Prof. Edwin Corwin has explained, the establishment clause is not like the liberties outlined in the first nine amendments such as the right to bear arms. Rather it is like the 10th amendment which distinguishes the proper constitutional powers of the National and State Governments under our Federal system.

The framers of the first amendment rejected the proposal by the delegations of Virginia and North Carolina that "no particular religious sect or society ought to be favored or established, by law, in preference to others," because this language would have allowed Congress to disestablish the established churches of five States. The Congress then rejected Madison's proposal that the first amendment not apply to Congress at all, but that it prohibit only the States from violating "the equal rights of conscience."

The authors of the first amendment sought to protect religious liberty by providing that "Congress shall make no law . . . prohibiting the free exercise" of religion. However, regarding the purpose of the establishment clause, the legislative history is clear that the framers sought to prohibit Congress from establishing a national church or interfering with the individual State's policy regarding religion. As Justice Story wrote:

> The whole power over the subject of religion is left (by the amendment) exclusively to the State governments to be acted upon according to their own sense of Justice and the State constitutions.

The authors of the first amendment sought a division of power in which the States would retain their ability to establish or disestablish a religion, while Congress had no power in this area. There simply is no liberty contained in the establishment clause to be "incorporated" through the 14th amendment and apunequivocal language that the appellate jurisdiction of the Court is subject to "such exceptions, and under such regulations as the Congress shall make."

Thus, this year, I reintroduced S. 438, my school prayer bill. It states simply that the Federal courts shall not have jurisdiction to enter any judgment, decree, or order denying or restricting, as unconstitutional, voluntary prayer in any public school. Implicit in this bill is the understanding that the American citizen will have recourse to a judicial settlement of his rights, but this settlement will be made in the State courts of this Nation and not in the Federal courts. This is where our religious freedoms were always safeguarded for 173 years until they were nationalized by the Supreme Court.

Mr. President, this brings us up to this amendment. The pending amendment simply embodies the language of my bill S. 438, to which I alluded a moment ago.

The limited and specific objective of this amendment, then, is to restore to the American people the fundamental right of voluntary prayer in the public schools. I stress the word "voluntary." No individual should be forced to participate in a religious exercise that is contrary to his religious convictions, and the bill recognizes this important freedom.

At the same time, the bill seeks to promote the free exercise by allowing those who wish to recite prayers—and they are, I believe, the vast majority of our citizens—to do so, with or without the

I compliment my colleague for stressing the fact that this is voluntary. Unless we can do something such as this, it seems to me that we are going to have further encroachment on what I think was the intent of the framers of the Constitution and what I suspect is the feeling of most people in the United States—continued encroachment on the authority of the Constitution, at least, the way I see it, by, yes, even the Supreme Court of the United States.

It seems to me that without getting into direct conflict with the Supreme Court, if we can adopt the amendment that has been suggested here, we perhaps can begin to take back some of the authority that I think should be restricted to Congress and get back to what I think was the original intent of the framers of our great Constitution.

Therefore I thank the Senator from North Carolina for offering this amendment. He will have my support.

The first amendment to the Constitution, of course, is very important. However, since I have been in Washington, D.C., it seems to me that everybody, on every shade of the political spectrum, uses the first amendment to the Constitution almost in any way he sees fit, to do what he wants to do. Of course, I say this in jest. However, because of the many interpretations that have been given to the first amendment, I sometimes wonder whether the framers of the Constitution might not have taken another look at the first amendment and perhaps plied to the States. To interpret both amendments in such a way as to construe such an application would amount to prohibiting a State from establishing a national religion or from interfering with its own arrangements regarding religion.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 40 seconds and 20 minutes remaining.

Mr. HELMS. Forty seconds and 20 minutes?

The PRESIDING OFFICER. Yes.

Mr. HELMS. May I turn that around and say that I have 20 minutes and 40 seconds?

The PRESIDING OFFICER. Yes.

Mr. HELMS. I thank the Chair. The Chair startled me.

CONGRESS CAN RESTORE THE RIGHT TO SCHOOL PRAYER

Mr. President, the Congress need not yield to any Justice of the Supreme Court in its respect for the words of the first amendment or for the principles or history behind them. Neither must Congress yield its responsibility under the Constitution to insure that the freedoms protected by the first amendment are not undermined by actions of other institutions. There is no more pressing duty facing the Congress than to restore the true spirit of the first amendment.

In anticipation of judicial usurpations of power, the framers of our Constitution wisely gave the Congress the authority, by a simple majority of both Houses, to check the Supreme Court by means of regulation of its appellate jurisdiction. Section 2 of article III states in clear and blessings of the Federal Government.

I think the conclusion is inescapable that in the Engel decision the Supreme Court in effect gave preference to the dissenters and at the same time violated the establishment clause of the first amendment by establishing a religion—the religion of secularism.

Public schoolchildren are a captive audience. They are compelled to attend school. Their right to the free exercise of religion should not be suspended while they are in attendance. The language of the first amendment assumes that this basic freedom should be in force at all times and in all places.

I urge the adoption of the amendment.

Mr. President, I reserve the remainder of my time.

Mr. EXON. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. EXON. Mr. President, I join in support of the amendment offered by the distinguished Senator from North Carolina.

It was strictly by accident that I happened to come to the Chamber this afternoon when this matter was being discussed. I am sorry to say that I did not have prior knowledge of it.

It so happens that this is a matter about which I have delivered many speeches and have made reference to on many occasions over the years. Therefore, I think that when people make noises out in the hinterland, when they do not have a vote, it is wise for them to stand up in the U.S. Senate, when they have that opportunity, as I do, and say that they think this amendment is a good one. repealed it altogether. I say that in jest. Perhaps they would have recognized that it should have been written a little stricter, to help those of us who do not believe that it should be changed by whims, as we go along, in the 200 years plus of our great society.

I see nothing wrong whatsoever with voluntary prayers in the schools, so long as we do not preach any religious theology in our public schools.

I thank the Senator for yielding.

Mr. HELMS. I thank the distinguished Senator from Nebraska for his eloquent comments. He has stated the case well, and I am most grateful to him.

Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, this is a constitutional question, and challenges the authority of the Supreme Court. It was not considered by the Governmental Affairs Committee, and it is within the jurisdiction completely of the Judiciary Committee. I am against this amendment, and I have no further comment.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield myself such time as I may require.

Mr. President, last year, I discussed on the floor of the Senate the precedents and constitutional principles which support Congress in limiting the jurisdiction of the Supreme Court in the manner which is proposed by the pending amendment.

To review briefly what I said at that time, Mr. President, the Congress has never doubted its constitutional authority to exercise its power to regulate the jurisdiction of the Federal courts and the Supreme Court. It is as simple as that.

Since the earliest days of the Republic, Members of Congress have proposed and enacted legislation to regulate the appellate jurisdiction of the Supreme Court. The Norris-LaGuardia Act, for example, narrowly restricted the authority of Federal courts to issue restraining orders or injunctions in "a case involving or growing out of a-labor dispute," and further provided that "yellow-dog" contracts "shall not be enforceable in any court of the United States and shall not afford any basis for the granting of legal or equitable relief by any such court."

More recently, we have seen an increasing number of such bills introduced by Members of Congress who are concerned about the rise of judicial activism and the decline of State power through judicial edict.

As my colleagues will recall, Representative William Tuck of Virginia introduced a bill in 1964 which provided that neither the Supreme Court nor any other Federal court should have jurisdiction to change or set aside any apportionment or reapportionment of legislative districts adopted by the State legislatures. On August 19, 1964, the Tuck bill passed the House by a vote of 242 to 148. Here in the Senate, a similar bill was sponsored by Senators Dirksen, Mansfield, STENNIS, and Eastland. I call these examples to the attention of my colleagues, Mr. President, to emphasize the fact that Members of Congress have always been cognizant of their responsibilities under the been argued before the Court. In the well-known case of *Ex parte McCardle*, 74 U.S. (7 Wall.) 514, decided in 1868, the Court promptly dismissed the case for want of jurisdiction. Speaking for a unanimous Court, Justice Davis declared:

> We are not at liberty to inquire into the motives of the legislature. We can only examine its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

The principle laid down in the McCardle case has been reaffirmed many times by the Court in subsequent cases down to the present. As the Court observed in the *Francis Wright*, 105 U.S. 381 (1882).

> While the appellate power of this Court extends to all cases within the judicial power of the United States, actual jurisdiction is confined within such limits as Congress sees fit to describe. What these powers shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control.

In the words of the late Mr. Justice Frankfurter:

> Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *subjudice*. *National Mutual Ins. Co.* v. *Tidewater Transfer Co.*, 337 U.S. 582, 655, (1948).

Not once in its history, Mr. President, has the Supreme Court departed from this principle or suggested that there are any limitations to Congress control over the Court's jurisdiction. Indeed, the Con-

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time and move to table the amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN), would vote "nay."

Constitution to check the encroachment of judicial power.

Nor has the Supreme Court itself ever entertained any doubts or misconceptions concerning the authority of Congress to regulate the jurisdiction of the Federal courts.

Few members of the Supreme Court in the 19th century went beyond Chief Justice John Marshall in asserting the powers and independence of the Federal judiciary. Yet it was Marshall who declared in 1805 that—

> When the Constitution has given Congress the power to limit the exercise of our jurisdiction, and to make regulations respecting its exercise, and Congress under that power has proceeded to erect inferior courts, and has said in what cases a writ or error or appeal shall lie, an exception of all other cases is implied. And this Court is as much bound by an implied as an expressed exception. *United States* v. *More*, 7 U.S. (3 Cranch), 159, 170–171 (1805).

Marshall restated his position in *Durousseau* v. *United States*, 10 U.S. (6 Cranch 307, 314 (1810)), where he flatly asserted that—

> The appellate powers of this Court are not given by the Judicial Act, they are given by the Constitution. But they are limited and regulated by the Judicial Act, and by such other acts as have been passed on the subject.

Chief Justice Marshall never allowed that there were any limits to the exceptions and regulations that Congress could prescribe.

Later, the Court went so far as to reaffirm Congress authority over its jurisdiction where Congress had withdrawn jurisdiction after the case had already stitution itself admits to no limitations.

Mr. President, I would like to seek the yeas and nays on this amendment, but obviously we do not have enough Senators in the Chamber for a sufficient second.

I suggest the absence of a quorum, and if the Senator from Connecticut does not mind, we will divide the time equally.

Mr. RIBICOFF. I have no objection.

Mr. HELMS. I thank the distinguished Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, yielding myself just 1 minute, I have discussed this matter with the distinguished manager of the bill, my friend from Connecticut (Mr. RIBICOFF), and he intends to move to table this amendment.

I just want the RECORD to show that a vote in favor of tabling the amendment is a vote to kill the amendment, and this is a very vital issue. And I hope Senators will carefully consider their votes on this matter because it is one obviously of deep concern to millions of people across this country.

So with that, Mr. President, I am willing to yield back the remainder of my time.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 43, nays 43, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—43

Baucus
Bellmon
Biden
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cohen
Cranston
Culver
Danforth
Eagleton
Glenn
Gravel
Hart
Hatfield
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Ribicoff
Riegle
Sarbanes
Stevens
Stevenson
Stone
Tsongas
Weicker

NAYS—43

Armstrong
Bentsen
Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Jepsen
Johnston
Laxalt
Lugar
McClure
Melcher
Morgan
Nunn
Pressler
Pryor
Randolph
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stewart
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—14

Baker
Bayh
Durkin
Garn
Goldwater
Heinz
Humphrey
Long
Moynihan
Roth
Stafford
Talmadge
Wallop
Williams

So the motion to lay on the table UP amendment No. 69 was rejected.

Mr. HELMS. Mr. President. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk cannot hear the responses of Senators as he calls the roll. The Senate will be in order.

The clerk may proceed.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

NAYS—37

Baucus
Bellmon
Biden
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cohen
Cranston
Culver
Danforth
Eagleton
Glenn
Gravel
Hart
Hatfield
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Riegle
Sarbanes
Stevenson
Tsongas

NOT VOTING—16

Baker
Bayh
Durkin
Garn
Goldwater
Heinz
Humphrey
Long
McGovern
Roth
Stafford
Stewart
Talmadge
Wallop
Weicker
Williams

So Mr. HELMS' amendment was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

MOTION TO RECESS UNTIL MONDAY, APRIL 9, 1979

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, under the order, until 12 o'clock on Monday next.

The PRESIDING OFFICER. The question is on agreeing to the motion that the Senate stand in recess.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 55, nays 27, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—55

Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
Danforth
DeConcini
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stone
Young
Zorinsky

NAYS—27

Armstrong
Bellmon
Chafee
Church
Cochran
Cohen
Dole
Domenici
Durenberger
Exon
Hatch
Hayakawa
Helms
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Pressler
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Warner

NOT VOTING—18

Baker
Humphrey
Stewart

ator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The PRESIDING OFFICER (Mr. BURDICK). Have all Senators in the Chamber voted?

The result was announced—yeas 47, nays 37, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—47

Armstrong
Bentsen
Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Magnuson
McClure
Melcher
Morgan
Nunn
Pressler
Pryor
Randolph
Ribicoff
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Thurmond
Tower
Warner
Young
Zorinsky

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to recess. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr.

Bayh
Durkin
Garn
Goldwater
Heinz
Long
McGovern
Packwood
Roth
Stafford
Talmadge
Tsongas
Wallop
Weicker
Williams

So the motion to recess was agreed to.

RECESS

The motion was agreed to; and at 5:43 p.m., the Senate recessed until Monday, April 9, 1979, at 12 o'clock meridian.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, MONDAY, APRIL 9, 1979 No. 45

Senate

(Legislative day of Thursday, February 22, 1979)

DEPARTMENT OF EDUCATION

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate.

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 210) to establish a Department of Education.

DEPARTMENT OF EDUCATION

The Senate continued with the consideration of the bill S. 210.

Mr. ROBERT C. BYRD. Mr. President, on Thursday last the Senate adopted an amendment, the school prayer amendment, offered by Mr. HELMS to the bill creating the Department of Education, S. 210. I voted for the amendment by Mr. HELMS.

Today the Senate adopted the exact same language that was in the amendment by Mr. HELMS to the Department of

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote on the Helms amendment to S. 210.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. RIBICOFF. How much time does the Senator wish,

Mr. ROBERT C. BYRD. Will the Senator yield me 3 minutes?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. I yield to the Senator from Wisconsin.

Education bill to the bill S. 450, the subject matter of which bill was Federal court jurisdiction.

It is hoped now that the vote on the amendment that was adopted by the Senate on Thursday to the Department of Education bill will be reconsidered, and that the amendment will be voted down.

The bill S. 450 which was called up today by the leadership, and to which the Senator's amendment was attached, was the appropriate vehicle in that that legislation dealt with Federal court jurisdiction. To attach the amendment to the Department of Education bill would endanger that bill, in the judgment of many. Therefore, the Senate having already adopted the language of the school prayer amendment on a more appropriate bill today, I would hope that the motion to reconsider which has been made by Mr. RIBICOFF will carry.

Undoubtedly, a motion to table that motion to reconsider will be made. I hope that Senators will vote against the motion to table and vote for Mr. RIBICOFF's motion to reconsider, and if that carries, then that the Senate will indeed reconsider the vote and reverse its vote of last Thursday on the amendment by Mr. Helms.

Again, I say I voted for that amendment last Thursday. But the Senate has adopted the amendment today on a more appropriate vehicle. In the interest of not endangering the Department of Education bill, I would hope that the Senate would undo what it did last Thursday, vote against a tabling motion, vote for the motion to reconsider by Mr. Ribicoff, and then vote down the amendment by Mr. Helms.

Mr. RIBICOFF. Mr. President, the Helms amendment really does not belong in the legislation creating a Department of Education. That is a reorganization bill. The Helms amendment logically belongs on the bill, S. 450. The Senate has worked its will on that.

There is no question in my mind that if the Helms amendment were attached to the Department of Education bill, it would tend to kill the Department of Education bill.

I do realize that there are many people in this Chamber who voted for the Helms amendment and yet are cosponsors and supporters of the Department of Education bill. They were caught in a dilemma. They have expressed their will. They have made their decision for the school prayer amendment of Senator Helms. It is now attached to S. 450.

Mr. President, I would hope that having so voted, those Senators would vote against the motion to table and for the motion to reconsider.

constitutional amendments to restore voluntary prayer in public schools or to provide a statutory approach to that subject. It is not a trivial matter. It is of extraordinary importance. It is not coercive; it is important, it is fundamental; it is not complex. It is a matter that should be addressed and should be addressed at every convenient opportunity.

Mr. President, I enthusiastically support the creation of a Department of Educaton. I feel that HEW is too big and it is out of control. I think the sooner we get about the business of breaking it down into its component parts, the better off we shall be. Thus, I support the creation of a Department of Education.

In my judgment, Mr. President, there is no more appropriate place to put statutory language dealing with the restoration of the State's authority to judge the question of voluntary prayer in public schools than at the time we consider the creation of a new Department of Education. On that basis, and consistent with my views as I have expressed them many times in this Chamber, I shall vote to table the motion to reconsider.

Mr. HELMS. I thank my friend from Tennessee.

Mr. President, I feel a little bit like the defendant in a case down in Texas when he heard the bailiff say "Oyez, oyez, the great State of Texas against John Smith" and John Smith said, "All that against me?"

The President of the United States has been calling Senators all day long, beginning, I know, as early as 7:30. The speak today on behalf of the Helms amendment in regard to voluntary prayer in public schools. As I reread the Congressional Record of last Thursday's proceedings in this august body, I was struck by the fine and articulate, reasoned manner in which Senator Helms presented his amendment. I also read with appreciation the comments of the Senator from Nebraska (Mr. Exon). To me, it was certainly a hopeful sign that this amendment passed with a 47-to-37 margin. Now that there has been a motion to reconsider, and I know that many well-intentioned people have been very active since last Thursday in opposition to the Helms amendment, I would like to make a few considered remarks in regard to the amendment.

I also appreciate the action of the majority leader and his assistance in getting a bill passed previous to this.

I rise today not to speak as a constitutional lawyer, although I have read the opinions of many on this matter. I rise to speak as a Christian and as a concerned American. That may not be a very sophisticated and popular thing to proclaim in this modern day of 1979, but I can tell you with great certainty it would have been very much accepted in the Halls of Leadership only 200 short years ago, when our predecessors were shaping the foundation that this great United States has been built upon. A house without a foundation will not stand very long—nor will a nation without a foundation stand very long. If the Members have not read "the Light and the Glory"

I am pleased to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, based on the trust that the Senate will vote this down, in the last hour I have had the privilege of meeting with a class of 200 junior high school students from the State of Illinois, up in room 3302. I put the question of voluntary prayer in public schools to them, without prejudice in any way, and asked them to speak to both sides of it. The students spoke on both sides of it. Then they voted, overwhelmingly, against it. I think there were less than a dozen in favor of school prayer.

Afterward, in a discussion with the faculty members who were there, we discussed who would make these decisions, what kind of prayers would be said, and so on.

I simply do not feel that this is the time or place for this amendment. Certainly, I do not feel that this is the proper vehicle. Those who favor the Helms position, and a majority of the Senate did, have now expressed themselves. They have a proper vehicle. I hope we will not burden the Department of Education bill but vote that up or down on the basis of its own importance to the Senators as to whether they should have it or not. We should not encumber it with this particular amendment that has already been adopted by the Senate.

Mr. BAKER. Will the Senator yield to me a minute?

Mr. HELMS. I am delighted to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, many of us in this Chamber have, from time to time, offered and, on occasion, voted for distinguished Vice President is sitting right across the cloakroom. He has been collaring Senators here. My friend, the majority leader, who voted for my amendment the other day, and I appreciate it, is now against me. So there is nobody for me except the people.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HELMS. Briefly, because time is limited.

Mr. ROBERT C. BYRD. The majority leader has neither been collared by the Vice President nor has he been contacted by the President.

Mr. HELMS. I did not say the majority leader had, but other Senators have told me that they have been.

Be that as it may, Mr. President, this is a procedural vote. That is all it is. The Senator from North Carolina and those who stood with him this past Thursday won, fair and square. We called up an amendment, it was voted on. We won by a 10-vote margin. Now what we have is an effort to turn that around, to rescind an action of the Senate simply because people are fearful that it might affect this bill. Well, as to the DeConcini bill, which was just passed, I should like some assurance by somebody that that is going to pass the House of Representatives. I do not know. But I will say, Mr. President, that the Senator from North Carolina intends to put this amendment on every available piece of legislation coming through the Senate until both the House and the Senate get a chance to vote on it.

I yield to my friend from Iowa.

Mr. JEPSEN. Mr. President, I rise to by Peter Marshall, Jr., and David Manuel, I would suggest you at least peruse it. The depth of faith and conviction with which the leaders of this Nation called upon God and their open, unembarrassed manner in doing so, I believe, will perhaps surprise you. These are the motivating factors that the secular history books overlook. This was founded as a Christian country and the very basis of our Government was the Judeo-Christian ethic. Any scholar who would refute this would be hard put to prove otherwise.

We find ourselves today faced with the erosion of nearly every basic moral and spiritual belief which we held as true in the last 200 years. The so-called new morality is being replaced by "do your own thing." Now, that "own thing" may be at the expense of your family, your home, and your country.

We hear the hue and cry for more rights. Rights for this group and that group. That is fine, but what has happened to the responsibilities that logic alone tells us accompany rights? Do we hear a cry and a new movement for our own responsibilities? Has anyone here ever seen a demonstration demanding responsibilities? I wonder why not? I submit that one of the greatest reasons is that we have taken, stone by stone, the foundation of these United States away and the house is getting mighty shaky.

I submit today that one of those stones that was taken away from our foundation in this country was the freedom of our children to pray in school—if they so choose. In the early schools of America, Bible reading and prayer were an accepted part of the school day for most children. Now they had better not get caught praying or they may be in more trouble than if they were caught smoking pot. Something is wrong.

Our Constitution guarantees us all the "free exercise of religion." It guarantees us all freedom of religion—not freedom from religion. This amendment only gives our children the freedom to pray in school if they wish; it does not tell them or anyone they must pray. I believe this is their basic constitutionally guaranteed right.

We have tried and adopted in the last few years many new "sensitive" approaches to modern-day education. Yet we see the morals and discipline disappearing in our schools and our children many times graduating from high school without being able to read and write adequately. We have chucked the old and brought in the new—and many times, sadly, it has not worked. We have not been giving our children any foundation upon which to build and shape their own value system. No wonder they are floundering for purpose and direction.

Mr. President, I do not propose that voluntary prayer in school will solve all our problems. That would be ridiculous. But it would at least be putting back one of the stones of the foundation this great land is built upon. Please think about it.

41

I am aware that some of the Christians in this country, and I believe they are in the minority, are opposed to the Helms amendment. I am sure that there are knowledge and adore the invisible hand which conducts the affairs of men more than the people of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency. . . . We ought to be no less persuaded than the propitious smiles of heaven can never be expected on a nation that disregards the eternal rules of order and right, which heaven itself has ordained.

Mr. RIBICOFF. Mr. President, I yield 1 minute from the bill to the Senator from Vermont.

Mr. LEAHY. Mr. President, I have heard the debate today and last week.

Speaking personally and as a parent of three young children, I will vote against this amendment. The three Leahy children have attended schools both in the parochial school system and the public school system. They attend the parochial school system in Vermont, and that is by our choice. In that system, prayers are encouraged—in fact, are mandatory—and we are delighted with that, because we have made the choice of the school and we made the choice of the religion involved—in this case, Roman Catholicism—and we accept and believe in the prayers said.

However, I would be very concerned if my children were put in a position where they were required to say prayers in the public school system, prayers I would have no choice or say over, to be dictated perhaps by a school board or bureaucracy with which I was not connected and in which I had no voice.

will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

The VICE PRESIDENT assumed the chair.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS) and the Senator from Missouri (Mr. EAGLETON) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. BUMPERS) would vote "nay."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Delaware (Mr. ROTH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 41,

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Christians in this Senate that are opposed to this amendment. I would like to say this to them: "My brothers and sisters, I know that your heart is in the right place and your intentions are good, that you are concerned about the rights of the unbelievers and the agnostics, that you do not want to offend them or take from them their rights. I understand your concern. But I would only remind you that the Lord God does not run a democracy—nor bend and change for a disagreeing minority. And he is not overruled by the whims of the Supreme Court of the Day.

I believe that the witness of those in the Christian community who come out in opposition to voluntary prayer in school is a sad and watered-down testimony to the gospel they profess. I believe that the secular humanism that abounds in our children's schools today is a religion and it is openly accepted and generally unchallenged. I believe we Christians are called to stand and proclaim more than a "social religion"—and then by God's grace try to live by his precepts.

In closing, I would like to read from the inaugural address of our country's first President, George Washington. On April 30 of 1789, in New York City, after taking the oath of office, he stepped inside Federal Hall and spoke these words:

> It would be peculiarly improper to omit, in this first official act, my fervent supplication to that Almighty Being, who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that his benediction may consecrate to the liberties and happiness of the people of the United States. . . . No people can be bound to ac-

The PRESIDING OFFICER. The Senator's time is expired.

Mr. LEAHY. Mr. President, will the Senator yield me 30 seconds?

Mr. RIBICOFF. I yield 1 additional minute on the bill.

Mr. LEAHY. We will continue to send our children to Catholic education schools; they will continue to say prayers there. But it will be by our choice and prayers of our choosing, not prayers of someone else's choosing.

For that reason, and on sound constitutional grounds, I will vote against this amendment.

I thank the distinguished Senator from Connecticut.

Mr. BAKER. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. Time has expired on the amendment.

Mr. BAKER. Mr. President, is there time remaining on the bill?

The PRESIDING OFFICER. On the bill, there are 3½ hours.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the Helms amendment.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I move to table the motion to reconsider, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion to table the motion to reconsider.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk nays 53, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—41

Armstrong
Baker
Bellmon
Boren
Byrd,
  Harry F., Jr.
Church
Cochran
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Morgan
Pryor
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—53

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Glenn
Gravel
Hart
Heinz
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stone
Talmadge
Tsongas
Weicker

NOT VOTING—6

Bumpers
Chafee
Eagleton
Roth
Tower
Williams

So the motion to lay on the table the motion to reconsider was rejected.

The VICE PRESIDENT. The question recurs on the motion to reconsider. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, this has been a busy day, and I know how strong the feelings are on the prayer amendment. With S. 450, which was a proper bill, for this amendment to be attached, the Helms amendment was carried and passed by the Senate.

On Thursday last, the Helms amendment was attached to the Department of Education bill, and it was voted upon. Now we have the reconsideration of the Helms amendment. Senator HELMS moved to table, and the motion to table failed.

It is our feeling that there are many here who feel strongly about the prayer amendment but who also feel strongly about the Department of Education. They have cosponsored this legislation and are in favor of it, but it is a certainty that if this prayer amendment, the Helms amendment, is attached to the Department of Education bill it will doom the Department of Education bill.

There should be an opportunity to vote up or down on the Department of Education bill as a basically clean bill without it being encumbered with a piece of legislation or an amendment that really belongs in the Judiciary Committee or on a Judiciary Committee bill.

The Department of Education bill is a reorganization bill. We did not have hearings on the ins, the outs, the ways and the wherefores and the constitutionality of the Helms amendment.

It is our hope that we will vote up or down on germane amendments to the Department of Education bill.

Those who have favored and who are in favor of the prayer amendment have

[Rollcall Vote No. 42 Leg.]

YEAS—50

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Glenn
Gravel
Hart
Hatfield
Heinz
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stone
Tsongas
Weicker

NAYS—43

Armstrong
Baker
Bellmon
Boren
Byrd,
  Harry F., Jr.
Church
Cochran
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Morgan
Pryor
Randolph
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NOT VOTING—7

Bumpers
Chafee
DeConcini
Eagleton
Roth
Tower
Williams

So the motion to reconsider was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the Senate is now about to vote with partment of Education bill could endanger the bill. Therefore, I hope that this Department of Education bill can be ultimately passed without this amendment.

Mr. President, I ask that I be recognized to move to table after the Senator from North Carolina and other Senators have spoken.

Mr. HELMS. Mr. President, what the Senator from West Virginia has said is true. He has been accurate in his statement. But the fact of the matter is that I have the apprehension that what has transpired here today may effectively kill the amendment. I do not know what attitude the distinguished chairman of the House Judiciary Committee will take with respect to the bill referred to, S. 450. My information is that he does not like the bill in the first place. But, as the Senator from New York is want to say, we are not children and we can recognize what is going on.

I would say to Senators that from all over this country over the weekend telegrams and telephone calls have poured in from citizens who are very much interested in this amendment. A vote to table the Helms amendment will be, in my judgment, a vote to effectively kill the amendment. If a Senator wants to do that and then to go back home and try to explain it, that is fine. Each of us have to vote our conscience. I would not want any Senator to labor under the impression that he has done his duty on behalf of restoring voluntary prayer made their intentions very clear on a bill where it really belongs.

I do hope the Senate will vote favorably on the motion to reconsider the vote on Mr. HELMS' amendment.

The VICE PRESIDENT. The question is on agreeing to the motion to reconsider the vote by which Mr. HELMS' amendment was agreed to.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), and the Senator from Missouri (Mr. EAGLETON) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. BUMPERS) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Delaware (Mr. ROTH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 50, nays 43, as follows:

respect to the amendment offered by Mr. HELMS. The same amendment was adopted earlier today to the Supreme Court jurisdiction bill, which was the appropriate vehicle for that amendment.

The VICE PRESIDENT. Who yields time?

Mr. RIBICOFF. I yield 5 minutes from the bill.

Mr. ROBERT C. BYRD. I voted for the amendment earlier today. I voted for the amendment by Mr. HELMS on last Thursday. But in the minds of many, the adoption of this amendment to the Department of Education bill could prove to be fatal to the bill. I would hope now that the Senate would not support the amendment. As I say, the Senate has already voted on a separate amendment today, and has adopted it to a more appropriate vehicle. We will have a vote now on the motion to adopt the Helms amendment. Is that correct, Mr. President?

The VICE PRESIDENT. It will be on the amendment itself on reconsideration.

Mr. ROBERT C. BYRD. The amendment is before the Senate again?

The VICE PRESIDENT. The question recurs on the amendment.

Mr. ROBERT C. BYRD. I will move to table shortly but I will not cut off any other Senator from an equal amount of time. I simply want to stress the fact for the record that the Senate has already today adopted this amendment but to another bill, to a more appropriate bill, a bill dealing with Supreme Court jurisdiction, which is the subject matter of the amendment. To apply it to this Department of Education bill is not needed. One can express his support for voluntary prayer in the schools of this country simply by voting for the amendment which was attached to S. 450.

Mr. RANDOLPH. Mr. President, will my colleague yield? I do not want, however, to break his continuity in discussing this important subject.

Mr. HELMS. I am glad to yield to my friend from West Virginia.

Mr. RANDOLPH. Mr. President, there is a desire on the part of this Senator to continue to support voluntary prayer in our public schools.

Mr. HELMS. I believe that.

Mr. RANDOLPH. I have always voted so during my service in the Senate. I regret that the President of the United States has said in recent days that he, in essence, does not want "our Government in the prayer business." I remember, however, that our Chief Executive wants prayer in the White House. We have daily prayer here in the Senate. We have daily prayer in the House of Representatives. This is a public body; the House is a public body; the White House is a public body, I believe he is in error to differentiate, and therefore to be against prayers on a voluntary basis as a part of a voluntary program in the public schools of this country.

Mr. President, I ask unanimous consent to include at this point in my remarks the following news report in the Washington Star of April 9, 1979.

The material follows:

CARTER DOESN'T WANT U.S. IN "PRAYER BUSINESS"

President Carter, commenting on a new effort in the Senate to permit voluntary

> prayer in public schools, has told a news conference, "I think the government ought to stay out of the prayer business."
>
> The president's remarks were made to a group of editors at the White House Friday. A transcript was released yesterday.
>
> Carter declined, however, to say whether he felt that a prayer amendment sponsored by Sen. Jesse A. Helms, R-N.C., was unconstitutional or not.
>
> "I won't try to judge," he said. "I am not a lawyer. I don't know." Then he added. "The Constitution, I think, has been interpreted by the Supreme Court in such a way that students should not feel a constraint to pray while they are in a public school."

Having said this, I now must be very careful in relation to the position I take on the pending vote. The able Senator knows how I feel about the subject. We have discussed it, as I have discussed it with other Senators who take a viewpoint at variance with the one we basically hold in this matter.

I often vote with the Senator from North Carolina. I vote with him, not so much because he offers the amendment—although certainly it is something that I recognize as being offered by a dedicated Senator speaking his conscience and is loyal to his purpose—I vote on the substance of the matter, which I think we must always weigh regardless of which of our colleagues offers an amendment in the Senate.

What I am trying to arrive at in my own thinking is that—having done what Senator BYRD, the persuasive majority

Mr. HELMS. Mr. President, I still have the floor.

The VICE PRESIDENT. The Senator from North Carolina has the floor.

Mr. HELMS. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. HELMS. Is a motion to lay on the table in order in this instance?

The VICE PRESIDENT. The Parliamentarian tells me it would not be, 3 days not having intervened since the motion to table was defeated.

Mr. HELMS. When the time has expired, is a motion to table in order?

The VICE PRESIDENT. Under the precedents of the Senate, a motion to table cannot be renewed once one has failed, unless the amendment has been changed in some form, until after 3 days have intervened.

Mr. HELMS. Will the distinguished Vice President repeat all that in tandem so I can understand?

The VICE PRESIDENT. I shall try. A motion to table, having failed, cannot be renewed except if it has been changed in some form; it cannot be renewed until after 3 days have intervened.

Mr. HELMS. I thank the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia now has the floor.

Mr. ROBERT C. BYRD. Mr. President, I know about the 3-day rule and that is voted for it. But what is the benefit of adding an amendment to a bill that is going to kill the bill? And when it kills the bill, the amendment dies, also. So that is a vain act, it seems to me.

Mr. HELMS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. I want to be frank with the Senator. I have heard at least one Senator say he was going to vote against the bill if this amendment were killed. So it is two sides of the coin. I do not understand the argument that this will kill the bill. I do not want to prolong it, but if the Senator will explain it to me, I woud be so grateful for his enlightenment.

Why not allow schoolchildren to have voluntary school prayer?

Mr. ROBERT C. BYRD. The Senator would not be persuaded by my argument, I say in all respect. He would not be persuaded.

Mr. HELMS. Yes, he would. The distinguished majority leader always persuades me.

Mr. ROBERT C. BYRD. Mr. President, the Senate has already adopted this amendment. Why go through the motion of adopting the amendment again, and, especially, to a bill to which it is not germane and which can be endangered by the amendment? We have already adopted the amendment and adopted it to the appropriate bill, a bill that deals with Federal court jurisdiction. That is the bill to which this leader, has emphasized—we have acted on this matter. I have voted for the amendment of the Senator from North Carolina, attached to an appropriate bill. I cannot say what the members of the Committee on the Judiciary will do; I cannot say what the chairman of that committee, the diligent Senator from Massachusetts, will do. It is not for me to say. But I have spoken with my vote and helped to have the amendment attached to legislation. It is difficult for me to understand why I would have to go back home and explain that this was a part of a maneuver operation. It is not such an action with me. I look on my vote as having been cast. It is there in black and white and it goes to the House of Representatives for subsequent decision. Is that correct? I ask the Senator.

Mr. HELMS. That is correct.

Mr. RANDOLPH. Yes. So it is a vote that is a part of the legislative process. So it is difficult for me to stand with the Senator from North Carolina on a vote of this kind, though I would listen to him further on the subject matter.

Mr. HELMS. Mr. President, I thank the Senator from West Virginia. There is no Member of this Senate who is more versed in the operation of the Senate and no one more able to explain his position than the distinguished Senator from West Virginia.

Mr. President, a parliamentary question.

Mr. KENNEDY. Mr. President, will the Senator from Connecticut be kind enough to yield me 4 minutes.

a misnomer; it is not a rule. I know about the 3-day precedent. In this instance, I think there is an extenuating circumstance, that being that the Senate has only today—only today—voted for an identical amendment to the amendment now pending, an amendment to the Federal court jurisdiction bill. It seems to me that that circumstance would justify a motion to table in this instance. It would not be counted as a precedent, it would not be counted as overruling the previous precedent. But there is an extenuating circumstance in this instance. The Senate has already voted, not more than 2 hours ago, to adopt the same amendment.

Why should the Senate do the same thing twice on the same day in the same session? In that circumstance, I think a motion to table would be in order. If it requires an amendment to the amendment, we can offer one.

Mr. HELMS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. Let us have an up or down vote and I shall leave this alone. What is the difference, really, between an up or down vote and a tabling motion except, perhaps, to obscure the issue a little bit? Let us vote up or down.

Mr. ROBERT C. BYRD. The issue has already been obscured. We have already adopted the amendment today.

My distinguished friend from North Carolina says, what about those Senators who will have to go back home and explain how they voted against a prayer amendment? We have already adopted a school prayer amendment. I amendment should have been attached and it was attached, by a resounding vote of the Senate. I do not think the Senate should vote this amendment up again, or down. Let us vote to table it.

Mr. HELMS. Well, the Senate is going to be in violation of the rules unless the majortiy leader appeals the ruling of the Chair, because the Chair has already ruled against him.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the amendment on the table.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I withhold the motion, Mr. President.

Mr. KENNEDY. Mr. President, will the majority leader yield me 4 minutes?

Mr. RIBICOFF. I am pleased to yield 4 minutes from the bill to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, prior to the first motion to table the Helms amendment last Thursday, there really was no debate or discussion about the importance or the significance of this issue from a constitutional point of view. I call to the attention of the Senate my reasons for raising this issue earlier in the day, I will continue to oppose the amendment of the distinguished Senator from North Carolina.

This will be the first time in 200 years of American history—the first time in 200 years of American history—where the U.S. Congress has excluded from Federal court jurisdiction or Supreme Court jurisdiction a matter which is enshrined in the Constitution of the United

States. The establishment clause and the first amendment.

There should be no mistake among the Members of this body about the importance and the significance of this particular amendment and what it means to our constitutional history and what it could mean for future legislation.

Mr. President, by adopting the amendment of the distinguished Senator from North Carolina, we will establish a precedent that the Congress will be able to take any action, involving individual rights and liberties directly or specifically referred to in the Constitution of the United States and remove jurisdiction of that matter from the Federal courts and the Supreme Court of the United States.

There is no place in the Constitution of the United States or in the history of this body where that has ever been done before.

We have limited appellate jurisdiction. We have refined appellate jurisdiction. We have defined appellate jurisdiction. But we have never in the history of 200 years in this country effectively denied appellate jurisdiction. We are about to do so in this particular case on a very important issue, the free practice of religion, or the establishment clause of the Constitution of the United States.

We should not lose sight of the significance of this, Mr. President. There can be questions as to whether this amendment is constitutional or not. There can be questions as to whether we can frame a constitutional amendment to remove jurisdiction from the Supreme Court and Supreme Court in interpreting the Constitution of the United States alone.

I do not just relegate this to questions of religion. We can see it in the seizure of property, or the elimination of due process of law, after the nationalization or seizure of private property, with an amendment similar to the Helms amendment, there would be no review by the Supreme Court.

In the McArdle case, at the time of the Civil War, appellate jurisdiction was further reviewed and defined, but it was never eliminated. And that is the significance of this issue.

I think it is important, Mr. President, since we have received assurances from the Senator from North Carolina that we are going to be faced with this issue time and time and time again, that Members of this body search their consciences and take the time to read through the whole range of constitutional authorities on this issue. We must ponder the steps we are taking on one of the most important and significant questions that has ever affected this body. And that is the basic issue of freedom of religion.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Connecticut.

UP AMENDMENT NO. 72

(Purpose: To require the Under Secretary to consult with the Secretary concerning the recommendations of the Intergovernmental Advisory Council on Education)

Mr. RIBICOFF. Mr. President, I send an amendment to the Helms amendment to the desk and ask that it be stated.

The VICE PRESIDENT. The Senator will state it.

Mr. HELMS. Does this Parliamentarian suggest that this amendment is germane?

The VICE PRESIDENT. Yes, it is.

Several Senators addressed the Chair.

Mr. HELMS. Mr. President, may I be recognized?

Mr. President, I was seeking recognition.

Mr. BAYH. So was the Senator from Indiana.

The VICE PRESIDENT. The Senator from North Carolina is recognized.

Mr. HELMS. I ask for the yeas and nays on my amendment.

The VICE PRESIDENT. The yeas and nays are automatic since they were ordered on the amendment initially, and the vote thereon was a yea and nay vote.

The Senator from Indiana.

Mr. BAYH. Mr. President, I think there has been a great deal of discussion on this matter. I would like to heartily concur in the wisdom of the remarks of the distinguished Senator from Massachusetts.

It has been the Senator from Indiana's good fortune to serve on the Judiciary Committee and to have been given the rather thankless task of presiding over the subcommittee of that committee which deals with the constitutional questions.

For some reason or other, they are all hot potatoes, and none of them has been more sensitive than the one involving prayer.

Federal courts. That is an open constitutional issue. But it is important that all of us understand, Mr. President, that if we as a body differ or take issue with a Supreme Court decision, then our Founding Fathers prescribed a way that issue should be addressed, and that is, it should be addressed by constitutional amendment.

This is how our Founding Fathers wanted us to deal with these matters, not by further refinement or elimination of jurisdiction in the Federal courts or in the Supreme Court.

The Senator from North Carolina has read into the record identities of distinguished religious leaders that support his position—I daresay that better than 60 percent of the organized religious groups in this country are opposed to his amendment, and for a very important reason: It is because they have read history and understand it.

In the history of Western democracies, religions have been basically persecuted. This has been the case in many countries. Religious leaders possibly foresee the day when Members of this body are going to say that a particular religion is going to be the established religion of the United States.

And if such a piece of legislation has added to it that clause, that excludes the Federal jurisdiction of the Supreme Court from ruling on that item, they foresee a grave challenge to our Nation. It is for that very reason, that representatives of the great religious groups of our country have wanted this body to leave the issue of jurisdiction of the

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Connecticut (Mr. RIBICOFF) proposes unprinted amendment numbered [illegible]2 to the Helms amendment.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Mr. President, we have only heard the title stated. Could the Chair advise us whether or not this amendment is in order?

Mr. RIBICOFF. It is in order. It is germane to the bill.

The VICE PRESIDENT. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> At the end of the amendment, add the following new sentence: "Notwithstanding any other provision of this Act, the Under Secretary shall consult periodically with the Secretary concerning the recommendations of the Intergovernmental Advisory Council on Education.".

Mr. HELMS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HELMS. Is the amendment in order?

The VICE PRESIDENT. The amendment is in order.

Mr. HELMS. Mr. President, a further parliamentary inquiry.

I think it is important for us to understand that what the Senator from Massachusetts says is correct. We are setting a very dangerous precedent that could go far beyond prayer.

But beyond that, in a body comprised, I would say, universally of men and women who are God-fearing people, who believe in a higher being, who practice religious beliefs, I think it would behoove some of us to look at the hearings we have held on the prayer issue shortly after the country decided the Shamp, Vitalley, and Murray question, which was when it first arose.

If we look at those hearings, we will find that the question decided by the Court was not to outlay voluntary prayer, but to outlaw Government prayer.

The Court has said that we cannot proscribe. The Baltimore School Board, the Pennsylvania State Education Commission, the New York Education Commission, in those questions the question had said, "Thou shall pray every morning, and this is what you say."

I do not think any of us believe that is what we want in our school system. If we want voluntary prayer, if we believe our relationship with the Almighty is an individual one, not to be prescribed by some governmental body, then we ought to vote this down and leave things as they are now. The Court has not proscribed voluntary individual approaches to the Almighty in our school system. It has said, "You cannot do it under Government order."

As sensitive as my State is on this issue, if you have a chance to lay it out, I do not want a State legislature or a city council or a school board telling my child what to pray, even if I believe in it, even if my child would not be offended by it.

It seems to me that if we believe in individual, voluntary prayer, we should have enough of this and get on with the passage of the bill, absent this amendment.

Mr. STEVENS. Mr. President, will the Senator from Illinois yield me some time on the bill, please?

Mr. PERCY. How much time?

Mr. STEVENS. Five minutes.

Mr. PERCY. I yield 5 minutes to the Senator.

Mr. STEVENS. Mr. President, I have listened to the Senator from Massachusetts and the Senator from Indiana, and I want to repeat what I said here the other day.

I voted to table this amendment when it first came up. However, I consider this a unique amendment, and it is a totally new approach to constitutional questions. The Senator from Massachusetts is correct about that. We have to get this amendment on a bill that is going to pass so that it will be decided by the Supreme Court, once and for all. We cannot listen to the debate and act as judges.

With all due respect to my friend, the Senator from Indiana, that is what he is doing. The Senator wants us to be Supreme Court justices and Senators at the same time.

This is a unique constitutional question. It is going to be decided if it gets to the Court that is—if it gets to the Court in a way that it will be presented stitutional, Congress may have a way to narrow the interpretation of the courts that passed on some of the amendments of the Constitution, which this Senator would like to do. I would like to see this principle examined by the Court, to determine whether or not Congress has the power to so restrict the jurisdiction of the Court, if, in effect, it restricts the interpretation of the amendments to the Constitution.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the point I would like to make is this: I do not think one really has to reach the issue of constitutionality in order to have very serious reservations about this approach. Let me continue for 1 minute.

If we take this action and if the action actually is acceded to, we deny the jurisdiction to the Federal courts and to the Supreme Court of the United States. If that occurs we will have 50 different interpretations as to what the amendment means. That may satisfactory to Members of this body and to the American people, who are disheartened by the current holding of the Supreme Court on the prayer issue, but make no mistake about it: If it is found to be constitutional, each and every State court will be able to make a judgment, on voluntary prayer that will never be contested. And those 50 different interpretations are going to be called the law of the land.

Second, if this is upheld, whenever the issue of prayer comes up again, it is We fear that the Supreme Court might find that this proposal is constitutional. I do not fear the Supreme Court.

As I have told my good friend from North Carolina, I have serious questions about the constitutionality of this proposal. However, I would like to find out whether this is a mechanism to help restore some of the powers to the States. If it is, we might well see some changes. We might well see the diversity that was originally in this Nation. We might well restore the concept of being a Union of States. To me, that would be a desirable goal.

Mr. RIBICOFF. Mr. President, I yield 3 minutes from the bill to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, I rise for an ancillary purpose. I have opposed and will oppose the amendment of the distinguished Senator from North Carolina for the reasons so ably stated by the Senator from Massachusetts and the Senator from Indiana.

It seems to me that the matter of prescribed prayer inevitably partakes of the establishment of religion and cannot be accepted under our Constitution.

At the same time, it seems to me clear, to use the term of the Senator from Massachusetts, that the American people are disheartened by the circumstances in which they find themselves. Their Government often requires them to do things they do not understand, things they do not like, and at levels of profound serifairly.

When the motion to table failed the other day, several of us voted for this amendment, for the precise purpose of getting it on a bill that we knew would be signed. We knew it would be presented to the Court, and it could be presented to the Court in several ways, as most lawyers in this body know.

Either we are going to get this over there in a very quick and simple fashion, or we are going to face similar amendments on every constitutional issue we can dream up—not by me, but by other Members of the Senate, because here is a unique way to raise a constitutional issue that has not been presented to the Court before. I challenge any Member of this body to say that this question has been presented to the Court before, because it has not.

I say it is not our job to determine the constitutionality of this unique approach. The arguments that it is unconstitutional are based upon the person's desire to be against the principle that is involved in the matter that would be reserved to the State courts to decide. It may well be a unique way to restore some of the powers to the States.

Mr. KENNEDY. Mr. President, will the Senator yield on that points?

Mr. STEVENS. I will yield in a moment.

It may be a unique way to restore some of the powers to the States. It may be that it is unconstitutional. But I think we all will agree that it is a unique way to raise a constitutional issue.

As I said the other day, if it is going to be said that it is not voluntary prayer, that it is somehow compulsory prayer, and the issue will be back in the Federal Courts anyway.

So we are giving assurances to the people of this country that we are resolving this issue. We are doing a disservice, I believe, to this institution by undermining the basic concept of the separation of powers.

No one doubts for a moment that we can bring the court system of this Nation to its knees—we have that power—by denying appropriations, either to the Supreme Court, to the district courts, to the U.S. attorneys, or to the courthouses. We have that power. The reason we have worked so successfully in this great Nation of ours is that we have respected the restraint and the importance of separation of powers.

It is my contention that should you come to that final question and decide that there is wisdom in this amendment you do a disservice in a very important, basic, and fundamental way to an area that is carefully outlined in the Constitution of the United States—freedom of religion. For we will have circumscribed the power of the Supreme Court and all the Federal courts to provide, for this one Nation of ours, one rule under law.

Mr. STEVENS. Mr. President, if the Senator from Massachusetts is asking me a question, with due respect, I have not heard the question.

The problem with what he is saying is that, in this instance, we fear the Supreme Court. That is what he is saying: ousness. Hence, we are led into dilemmas such as we see on the floor today.

It was precisely this problem that the Senator from Oregan and I had in mind last year, when we introduced the proposal for tuition tax credits, which would maintain the possibility of a plural school system, a plural educational system such that parents who have particular concerns of this kind have an option—albeit one which cannot be met without encountering the proper restraints of the Constitution. And the Senator from Connecticut supported us in this endeavor.

I hope we were not wrong in having proposed that, as the school system of the United States becomes more of a Government monopoly, this kind of agonizing question will more and more enter our politics, where it does not properly belong.

Mr. President, in our deliberations, in our exposition, we repeatedly said that, far from wishing to avoid the jurisdiction of the Supreme Court in the matter, we welcomed it and had fashioned our legislation in order to bring about a constitutional decision at an early term.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the area of intergovernmental relations is an important one. The Roth-Danforth amendments in committee improved the bill with respect to State and local responsibilities in education.

The present amendment to the Helms

amendment would require the Under Secretary, who is a member of the Intergovernmental Advisory Council on Education, to consult with the Secretary concerning the recommendations of the Council.

I, therefore, move that we adopt this amendment to the Helms amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, let us understand what is going on here.

The only reason this amendment has been sent forward is because the rules require it in order for the distinguished majority leader to be able to make a motion to table and thereby avoid an up-and-down vote on this matter.

I do not care much about the amendment. I do not think it does any good. I do not think it does any harm. But I think Senators should know exactly what is going on. The amendment is simply an effort to have a tabling motion instead of an up-and-down vote.

If the majority leader will have an up-and-down vote this debate is over as far as the Senator from North Carolina is concerned. But I want Senators to understand precisely what is going on.

Mr. JEPSEN. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I am delighted to yield to my friend.

Mr. JEPSEN. The distinguished Senator from Massachusetts has been talking about separation of church and state, the Constitution, and so on.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. ROBERT C. BYRD. Senators have already taken a flatfooted stand up-or-down on the language of the Helms amendment. How many more times does the Senate have to do the same thing on the same day? It has done that already. I hope it will not have to do it again.

Mr. HELMS. Mr. President, the Senator from West Virginia has stood with the Senator from North Carolina on this question almost entirely. Why does he object to an up-or-down vote?

Mr. ROBERT C. BYRD. Because I do not want to stand day after day and hour after hour with the distinguished Senator from North Carolina.

He tells us now we are going to repeatedly have to vote on this question. We have already voted on it. So let us be done with it.

Mr. McCLURE. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. I yield.

Mr. McCLURE. I thank the Senator for yielding for this question.

It seems to me I heard the argument today that to leave this amendment on the pending bill will be to kill the bill. I assume that that is also true if it is left appended to S. 450. Therefore, it is not really an action to save the amendment as it is to give it a convenient vehicle upon which it can conveniently die.

Therefore, Congress can avoid having voted on it and can say yes, we voted for it, but without admitting that we

Mr. HELMS. The Senator said "North Carolina" this time.

Mr. MOYNIHAN. I thank the Senator and I correct my mistake and point out that in my enthusiasm for tuition tax credits I did not take into consideration the differene between North and South.

Mr. HELMS. It was my Yankee accent that fooled the Senator.

Mr. MOYNIHAN. I do not think that he feels insulted to be called the Senator from South Carolina, but the Senator from North Carolina clearly prefers to be from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. PERCY. Mr. President, before the Senator moves to [illegible] amendment will the Senator y[illegible] a couple minutes?

Mr. HELMS. I yield.

Mr. PERCY. Mr. President, we have 100 Members of this body. There are 17 different religious affiliations and every single Senator is affiliated with some established religious movement in this country.

We have a Senators' prayer breakfast. Twenty-four Senators were there last week. There are members of the prayer breakfast who voted on both sides of this issue. I do not think we have to prove whether or not we are for religion or against religion. I think it is a very distinct question as to whether or not it belongs on this bill.

As the manager of the bill on the minority side, I believe it does not belong on this bill.

The majority leader has seen to it that the Senate had a chance to vote

There is a bill numbered 4890 that passed in the Commonwealth of Massachusetts which was an act allowing for a moment of meditation for school prayer in the public schools.

> At the commencement of the first class of each day in all grades in all public schools, the teacher in charge of the room in which such class is held shall announce that a period of silence not to exceed one minute in duration shall be observed for meditation or prayer, and during any such period, silence shall be maintained and no activities engaged in.

This bill became law in Massachusetts and was upheld by a Federal court.

I thought I should bring this to the attention of this body and remind the Senator from Massachusetts of that.

Mr. KENNEDY. Does the Senator wish to offer that as a substitute for the amendment of the Senator from North Carolina?

Mr. HELMS. If the Senator from Iowa will yield I suggest that he sit down because he does not have the floor any longer.

The PRESIDING OFFICER. The Senator from North Carolina has the time.

Mr. HELMS. I was tempted to say to my friend, Senator Moynihan, that I would call him from old New York if he would move me back to North Carolina.

No, Mr. President, I have nothing further to say except I am going to move to table this amendment because it serves no purpose at all except to avoid an up-and-down rollcall vote. I think Senators should take a flatfooted stand one way or the other up-or-down on the Helms amendment.

voted for it in the form in which we knew it would fail.

That is something that the people across the States will have to judge on their own understanding of the procedures under which it was adopted.

I wonder if the Senator from North Carolina has the same apprehension about what may happen with respect to the ultimate disposition of the Helms amendment.

Mr. HELMS. Mr. President, that would require on the part of the Senator from North Carolina to read the mind of the distinguished chairman of the House Judiciary Committee. I cannot do that. I am hopeful that Congressman Rodino will hear from a considerable number of American citizens about this matter and that he will indeed see to it that the DeConcini bill with the Helms amendment attached to it is reported to the House floor.

If Mr. Rodino decides not to do that, then he can deal with his constituents as he pleases.

I cannot read his mind. I do not know what he is going to do. I am delighted that the prayer amendment is on the DeConcini bill, and I think the Senate should go ahead and complete the job and put it on this education bill.

Mr. President, are we up on our time agreement?

The PRESIDING OFFICER. The Senator has 4 minutes and 30 seconds remaining.

Mr. MOYNIHAN. Mr. President, will the Senator from North Carolina yield briefly to me?

on it on another vehicle and will send it to the House of Representatives and have this matter tested.

The Senator from Illinois deeply believes and hopes that the Supreme Court cannot be removed from jurisdiction by Congress in this matter. It is an important issue.

I speak with some deep feeling, having listened all my political life to my distinguished minority leader, my colleague in the Senate, the beloved Everett McKinley Dirksen. Whenever he spoke on the school amendment in Illinois or in the Chamber it would bring tears to anyone's eyes, but it never changed his junior partner's decision on this matter.

I think this is a matter that should be left to the Supreme Court.

What I am deeply concerned about is that even on the other vehicle, if it does go to the Supreme Court, we are going to suddenly find our school system engulfed in debates as to how will this be implemented, what time will it be done, will children be excused from the room, if a prayer is offered what kind of prayer should be offered, what is the responsibility of a school district while this is being appealed to the Supreme Court once it has been passed into law, should they or should they not implement it as long as it is on appeal, and so forth.

Our schools are in deep trouble today with financing problems. They have great issues that should be debated and time should be taken with parents and students.

As I mentioned earlier today, I presented this issue to 200 junior high school students from the State of Illinois. We debated it in a seminar in room 3302, the very room where the education bill was voted out. After a full debate on both sides, without the Senator from Illinois indicating how he would vote on it, overwhelmingly those young people would have voted against a school prayer amendment.

Therefore, I intend to vote for the amendment by my distinguished colleague and trust we can have a vote either on a tabling motion or up-and-down motion immediately.

Several Senators. Vote.

The PRESIDING OFFICER. The Senator from Connecticut has used all his time.

Mr. HELMS. Is all time yielded back?

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina has 20 seconds remaining.

Mr. HELMS. Mr. President, I yield back any time I may have remaining, and I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Connecticut to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called

Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NOT VOTING—5

Bumpers
Chafee
Eagleton
Roth
Tower

So the motion to lay on the table UP amendment No. 72 was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Connecticut.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. HELMS. Mr. President, I have no objection to a voice vote on the Senator's amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I now move to lay on the table the Helms amendment as amended by the Ribicoff amendment.

I do so on the simple but very logical and I think cogent and persuasive basis that the Senate has already today adopted the same language on another bill, the Federal Judiciary Jurisdiction Act, which is supported by all nine Justices of the Supreme Court. All nine of the Justices support that measure, and to pass this amendment to this bill—and I voted for the amendment; I have supported the amendment, but I think it carries, this will be the last rollcall vote tonight unless a Senator wishes to have a rollcall vote on any other matter. I see no such indication.

Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Arkansas (Mr. Bumpers), and the Senator from Missouri (Mr. Eagleton) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Bumpers) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. Chafee), the Senator from Arizona (Mr. Goldwater), the Senator from Delaware (Mr. Roth), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—53

Baucus
Bentsen
Biden
Boschwitz
Hart
Hatfield
Heinz
Huddleston
Nunn
Packwood
Pell
Percy

the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. Bumpers) and the Senator from Missouri (Mr. Eagleton) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Bumpers) would vote "nay."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. Chafee), the Senator from Delaware (Mr. Roth), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any Members who have not voted?

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—38

Armstrong
Baker
Bellmon
Byrd,
  Harry F., Jr.
Church
Cochran
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Morgan
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—57

Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum

would be a mistake now, based on my conversations over the weekend, to add this legislation to the pending Department of Education bill.

So, unless the Senator from North Carolina wishes to respond, I am prepared to move to table.

Mr. HELMS. Mr. President, I have no wish to respond, except to thank the Senator from West Virginia, the Senator from Connecticut, and others. I think I know what the outcome is going to be; I have become accustomed to that. I wish we were having an up or down vote. We shall not, but Senators ought to bear in mind that when the Senator from West Virginia moves to table, any Senator voting for the motion to table my amendment is voting against the prayer amendment.

Mr. ROBERT C. BYRD. Mr. President, the Senator from North Carolina moved to table the amendment of Senator Ribicoff a moment ago. He exercised his rights, and I am going to do the same in moving to table his amendment.

I say again—I do not know how many times I will need to say it—the same language, with the exception of the amendment by Mr. Ribicoff, has already been voted up in the Senate today. The Senate has already adopted the Senator's proposal on a bill supported by the nine Justices of the Supreme Court. I oppose putting it on this bill, although I have already voted for the amendment, and I can go back home and tell my constituents I voted to support the prayer amendment, just as the Senator from North Carolina can do.

Mr. President, if the motion to table

Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Glenn
Gravel
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Simpson
Stafford
Stevenson
Stone
Tsongas
Weicker
Williams

NAYS—40

Armstrong
Baker
Bellmon
Boren
Byrd,
  Harry F., Jr.
Church
Cochran
Dole
Domenici
Exon
Ford
Garn
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Morgan
Pryor
Sasser
Schmitt
Schweiker
Stennis
Stevens
Stewart
Talmadge
Thurmond
Wallop
Warner
Young
Zorinsky

NOT VOTING—7

Bayh
Bumpers
Chafee
Eagleton
Goldwater
Roth
Tower

So the motion to lay on the table UP amendment No. 69, as amended by UP amendment No. 72, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, there will not be any further rollcall votes tonight.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I made an agreement with the distinguished Senator from New Mexico and the distinguished Senator from Massachusetts to have them introduce an amendment, which we will accept. It will take 10 seconds.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. WALLOP. If the Senator will yield, Mr. President, I will not be long.

I call attention to what, by any standards, could be called a double standard. I was late for a vote earlier today by less than that just reserved by the Senator from Florida (Mr. CHILES).

I would say that it does not seem to be a fair standard. We either follow the clock or we do not follow the clock.

AMENDMENT NO. 135

(Purpose: To delete the transfer of programs from the National Science Foundation to the Department)

Mr. SCHMITT. Mr. President, I ask that my amendment No. 135 be called up

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT), for himself, Mr. PROXMIRE, and Mr. GOLDWATER, proposes an amendment numbered 135.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

States, the defense needs of our Nation, and the improvement of conditions throughout the world cannot be overstated. The answer to many of the problems which we as a Nation face lies with advances in science and technology. The answer to many of the challenges which we as a people face can be found in continued research and development.

In my travels as first a former astronaut and now as a U.S. Senator, I am impressed with how the imagination of people, especially young people, in the United States and throughout the world has been captured by our technological achievements. People in other nations are impressed with how technology has improved the standard of living so greatly in the United States. This is no accident or coincidence. The coordination of science education and research must be credited with much of the success in this field.

The transfer of science education programs from the National Science Foundation to a new department will not meet the goal of improving science education which we all desire. This transfer will result in a communications gap between science education and scientific research. Coordination of education programs and research will be hampered and bureaucratic interference will be increased.

When the science education programs were initially developed they were put into the National Science Foundation rather than the Office of Education. This tecture ensures more quality and vitality in education in the United States is by no means clear. To paraphrase Thomas Huxley, size is not grandeur and territory does not make an educated nation. In the past three decades, federal education priorities have zigged and zagged and it is hard to put a name to what has come out of them, although there is evidence that federal leverage played a large role in opening up educational opportunity and that science curricula took a turn for the better. But given the built-in aversion to federal authority over the education process, expectations for striking change were too optimistic. The President sees balkanization of federal responsibility as a problem, and to an extent he is right. But pretentious efforts at reorganization are unlikely to make a difference unless driven by new consensus strategies, which to date have not turned up.

If little is to be gained by reorganizing federal education programs, the next question is whether something is to be lost. It is not idle question, given the jarring news that the National Science Foundation is to be stripped of most of its science education programs. Although science education in NSF is not what it once was, it still commands and deserves respect in the scientific community. The prospect of its assimilation by the conglomerate department of education is unsettling, since no bill of particulars has been presented to show that a superagency would do more than distribute mediocrity uniformly.

Time was when science education made up half of the NSF budget, compared with only 8 percent of a larger budget now. If we understand the government's intentions, NSF's statutory charter for science education would not be revoked even though its programs would be handed off. Puzzling

The amendment is as follows:

On page 88, beginning with the word "Improvement" on line 2, strike out through the dash on line 4, and insert the following: "Improvement all functions transferred from the Secretary of Health, Education, and Welfare—".

On page 88, line 5, strike out "(A)" and insert "(1)".

On page 88, line 8, strike out "(B)" and insert "(2)".

On page 88, line 10, strike out the semicolon and the word "and" and insert a period.

On page 88, strike out lines 11 through 13.

On page 106, beginning with line 22, strike out through line 23 on page 107.

On page 108, line 3, strike out "Sec. 304." and insert "Sec. 303.".

On page 108, line 12, strike out "Sec. 305." and insert "Sec. 304.".

On page 108, line 18, strike out "Sec. 306." and insert "Sec. 305.".

On page 109, line 3, strike out "Sec. 307." and insert "Sec. 306.".

On page 109, line 10, strike out "Sec. 308." and insert "Sec. 307.".

On page 124, line 18, strike out "section 304" and insert "section 302".

On page 73, in the table of contents, strike out item

"Sec. 303. Transfers of functions from the National Science Foundation.".

On page 73, in the table of contents, renumber items Sec. 304. through Sec. 308. as items Sec. 303. through Sec. 307., respectively.

Mr. SCHMITT. Mr. President, this amendment would delete from the bill, S. 210, the provisions that transfer educational functions now residing in the National Science Foundation to the proposed Department of Education.

Mr. President, the importance of science and technology in providing for the high standard of living in the United was not an accident. The basic mission, and that is what is important, was not education as much as the development of science and technology through education. Education is only the vehicle for the improvement of science.

This is an important point when we consider the Department of Education. The programs that have been considered for transfer must be considered in terms of their primary and basic mission and not solely their relationship to education. In the case of science education, this Senator feels that it was and is clear that the basic mission is to increase trained personnel and to promote research and development. That mission cannot be met satisfactorily by removing science education from the National Science Foundation.

The relationship between science education and the research and development programs of NSF are so integral that both will suffer if they are separated. That is the primary reason why this Senator opposes this transfer and this Senator does not stand alone. At this point, Mr. President, I wish to read the editorial which appeared in Science, the journal of the American Association for the Advancement of Science (AAAS), on May 19, 1978:

Another Go at Federal Education

There is something beautiful and good in the vision of Cabinet rank for education. There is to be a seat at the table at last, in the heady company of defense, foreign affairs, and energy. There is a hopeful glimpse of new political power, built on a unified education constituency. Such is the spell wrought by the sorcery of reorganization.

Whether a remodeled government architecture as that may be, what is even more troubling is the severing of science education from the major-purpose agency concerned with the state and progress of science. In a new education department dispensing 18 billion, the forlorn science education component would amount to two-tenths of a percent. One recalls a cherished footnote in federal budgets: "Totals may not add due to rounding." It is hard to believe that so frail a unit in so vast an empire could compete effectively in a contest of priorities.

In the absence of wars and space competitions, the importance of science education may not seem impressive to the reorganization experts. But only weeks ago the President was stressing the importance of science to our principal national purposes and calling for a new surge of technological innovation. He was right on both counts. If scientific research is a necessary public investment, surely it follows that science education is an equally necesary investment, surely it follows that science education is an equally necessary investment. Indeed, if a choice had to be made between more dollars for research and greater effort in science education, the case for the latter would be stronger. Human resources make or break investment in research.

Science education is not a priority that we have outgrown. As the knowledge base expands, increasing pressure is put on teaching. Both the proficiency of instruction at the secondary level and the effectiveness and competence of career counseling have profound meanings for higher education. A public which is asked to cope with difficult problems of choice in matters of health, consumerism, energy, and environmental balance can hardly assess uncertainty in the absence of better science education. There is a large and vexing job to be done. Government, which calls most of the signals for science, should be the first to understand this.—William D. Carey.

The position of the AAAS has not changed since that time after the debates which took place in the Senate on this issue last fall. The council of the AAAS met in January of this year and adopted a resolution reaffirming their position on this issue. Mr. President, I quote from the letter which I received from Mr. William D. Carey, executive officer of the AAAS, on this issue:

AMERICAN ASSOCIATION FOR THE
ADVANCEMENT OF SCIENCE,
Washington, D.C., January 15, 1979.

Hon. HARRISON H. SCHMITT,
Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR SCHMITT: At its meeting in Houston on January 7, 1979, the Council of the American Association for the Advancement of Science expressed opposition to the proposed transfer of science education activities of the National Science Foundation to the new Department of Education which would be created under pending legislation.

As you know, the American Association for the Advancement of Science is the largest federation of scientists in the world, consisting of some 130,000 individual members and nearly 300 affiliated scientific organizations.

The full Resolution adopted by the AAAS on January 7 is as follows:

Whereas the American Association for the Advancement of Science has long recognized the need for effective education in the sciences and for the public understanding of science, and

Whereas the continuing collaboration of scientists and educators within the structure of the National Science Foundation has contributed to the identification and resolution of issues in science education, and that bona fide science and engineering are the backbone of math, physics, chemistry, and biological education. The techniques have been copied for use in other curricula by HEW and others, but NSF has been the leader. Fundamentally, education benefits from a close association with research and advanced technical activity. It would be detrimental to the entire technical enterprise if NSF's education activities were divorced from its other activities.

The AAAS does not stand alone in its opposition to this transfer. Higher education associations as well as individual colleges and universities oppose this transfer. The feeling is shared by all affected by this transfer that both science education and research efforts will suffer. Charles Saunders of the American Council on Education stated this best in his testimony before the House Subcommittee on Legislation and National Security last year:

> The location of the Education Directorate within the National Science Foundation affirms the importance of the interdepndence of science education and scientific research. To separate the two would inevitably damage the quality of both by depriving them of their mutually supportive relationship.

Although one might argue the scientific community is speaking with a vested interest, the unanimity of this vested interest has to carry a great deal of weight in this deliberation. If we in the Congress and in the Government are going to continue to ignore the recommendations of all of the people most expert in a given field, then we are going I have been involved in all of these areas for most of my professional life. I am still involved in them in somewhat a different manner. I cannot say too strongly to my colleagues that this is probably one of the most serious mistakes we are going to make in the 96th Congress if we continue with the creation of the Department of Education and the inclusion of science education in such a venture.

Mr. HATCH. Mr. President, I rise in support of Senator SCHMITT's amendment to retain the science education function within the National Science Foundation.

As I am sure every Member of the Senate realizes, the United States is lagging behind in our scientific achievement. Productivity and innovation in the United States is slowing down dramatically and we are losing our lead in a technological capability.

In order to rebuild our position in science and technology we must maintain a strong emphasis on science education. The training of our young people in science is absolutely essential to our future scientific health and our well-being as a nation.

Science education is as much a part of science as basic or applied research. It is the function of science which will determine the success of research in physics, chemistry, biology, or geology in the future. The Federal program for science education ought to remain a part of the Federal entity charged specifically

Whereas the transfer of the educational activities of the National Science Foundation to the proposed Department of Education would sever this close working relationship between the scientific and educational communities.

Therefore be it resolved that the Council of the American Association for the Advancement of Science supports the retention of science education as an integral part of the National Science Foundation.

The Association respectfully asks that you give your most serious consideration to its position when the legislation to establish the new Department of Education comes up for action.

Sincerely,

WILLIAM D. CAREY,
Executive Officer.

The Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science, and Transportation held hearings on the Office of Science and Technology Policy last month. We had the privilege to hear testimony from Dr. Edward E. David, Jr., chairman of the American Association for the Advancement of Science and president of Exxon Research and Engineering Co. During Dr. David's testimony, he touched on the issue of science education and the proposed Department of Education. I quote from his testimony:

> As members of this Subcommittee know, there is a proposal in Congress to move the NSF Science Education Program to the new Department of Education. This would not be a productive move, in my opinion. As far as science and engineering education are concerned, innovation has come from the NSF in contrast to the HEW Department of Education or the NIE. NSF has been able to mobilize the technical community to see to do so at very great peril to the Nation.

Mr. President, I have discussed the basic mission of science education and the interrelationship of science education and scientific research. My last point deals with the concern this Senator has with the transfer of programs into a Department which we know so little about. The Department of Education is still not a reality. It is a proposal which has generated a deal of controversy both in whether it should become a reality and what programs should or should not be included. It is unlikely that these concerns and controversies will disappear quickly even if the proposed legislation is passed. In addition, if the Department of Energy, our most recent Executive Department, is any indication, it may be years before the Department gets itself organized and its house in order. What will happen to science education during this time? How will science education and research suffer during this period of time?

This Senator is very concerned about this situation and has serious reservations about putting science education into the middle of any problems which may arise in the first few years of a new Department. If, in fact, science education does belong in a Department of Education, and this Senator feels strongly that it does not, then, at least, let us wait until the Department is established and has its house in order.

Mr. President, I do not know what else can be said but to emphasize that the essential unanimous opinion of everybody who has been involved in science, scientific research, and scientific education is that we ought not to do it with our scientific enterprise and with that agency which can continue its focus on the future of science, not the future of education.

Mr. President, I wholeheartedly support the effort of my friend from New Mexico to delete the provisions transferring these programs from the National Science Foundation and I commend him for offering this amendment.

Mr. SCHMITT. Mr. President, at this time I yield to the distinguished Senator from Massachusetts.

UP AMENDMENT NO. 73

(Purpose: To amend provisions relating to the transfer of functions from the National Science Foundation)

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. There is an amendment pending, the Chair informs the Senator from Massachusetts.

Mr. SCHMITT. Mr. President, I believe this is a perfecting amendment?

Mr. KENNEDY. It is an amendment to the bill.

The PRESIDING OFFICER. Does the Senator from Massachuetts ask unanimous consent to call up his amendment?

Mr. KENNEDY. Yes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. RIBICOFF, Mr. PERCY, Mr. MAGNUSON, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. STEVENSON, Mr. JAVITS, and Mr. LUGAR, proposes an unprinted amendment numbered 73.

Mr. KENNEDY. Mr. President, I ask

unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 106, beginning with line 24, strike out through line 17 on page 107 and insert the following:

Sec. 303. (a)(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this Act pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except the functions or programs or parts of programs, as determined by the Director of the Office of Management and Budget, after consultation with the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in section 301(a)(1) of this Act, no mission oriented research functions or programs of the National Science Foundation or of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) The annual report to be transmitted by the Secretary pursuant to section 427 shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementation of successful innovations.

On page 107, line 18, strike out "(c)" and insert "(d)".

Mr. KENNEDY. Mr. President, this amendment deals with the proposed transfer of the National Science Foundation science education programs. It is designed to help assure that this Nation's science education programs continue to meet the standard of excellence which has contributed so importantly to this Nation's scientific and technical strength.

I ask unanimous consent to have printed at this point in the RECORD a table summarizing the distribution of NSF's science education programs as provided in my amendment and a narrative description of the manner in which the NSF and the Department of Education are expected to work together to carry out their responsibilities. The amendment provides that NSF will retain 70 percent of its science education funding—rather than only 27 percent as provided in the bill as reported by the Committee on Governmental Affairs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NSF science education programs	Purpose	Audience	NSF fiscal year 1980 request	Location after DOED legislation is enacted	NSF	DOEd
Comprehensive assistance to undergraduate science education	Instructional improvement	Scientists and science educators	$13.5	Most to education	3.5	10.0
Minority institutions science improvement	do	Minority scientists and science educators.	5.0	Education	0	5.0
Resource centers for science and engineering	do	do	2.8	NSF	2.8	0
Undergraduate instructional improvement (local course improvement and undergraduate instructional scientific equipment).	do	Scientist and science educators	6.5	Education get about half.	3.0	3.5
Disseminesion	Knowledge transfer	do	1.3	NSF	1.3	0
Development in science education	Knowledge generation	Scientists and science education	9.0	NSF	8	0

		researchers.				
Research in science education	do	do	6.3	Mostly NSF	6.0	.3
Science for citizens	2-way communication on issues of public policy.	Scientists and the public	2.1	NSF	2.1	0
Ethics and values in science and technology	R. & D. to illuminate issues of public policy.	do	1.3	NSF	1.3	0
Public understanding of science	Information to nonscientists	General public of all ages	4.0	NSF, some to education.	2.4	1.6
Precollege teacher development	Information to practitioners	Elementary school teachers	9.0	NSF, some to education.	6	3.0
Science faculty professional development (less elementary school programs).	do	High school and college teachers	3.0	NSF	3	0
Student-oriented programs	Talent identification	do	5.2	NSF	5.2	0
Minorities, women, and physically handicapped	Talent identification and conservation.	Minorities, women, and physically handicapped.	2.0	NSF	2.0	0
Fellowships and traineeships	Talent conservation	Graduate students in science	13.7	NSF	13.7	0
Total			84.7		60.3	24.4

RESPECTIVE ROLES OF DEPARTMENT OF EDUCATION AND NSF IN SCIENCE EDUCATION

The rationale for the division of programs, or parts of programs, between the National Science Foundation and the Department of Education is based on the following principles and considerations:

NSF ROLE

Programs that involve working at the frontiers of a scientific discipline, as in developing curricula reflecting new knowledge;

Programs involving close ties between instruction and the research environment, such as supporting graduate fellowships and developing research opportunities for undergraduate and secondary school students;

Programs directed at practitioners of science and technology, as in their scientific career development, presenting public policy issues affecting them;

Programs with the potential to increase the participation of minorities, women and the handicapped in careers in science;

Programs whereby practitioners of science and technology inform the general public of their perception of issues and values;

Transfers from NSF should result in retention of a sufficient nucleus of programs and staff to sustain the Directorate and provide a base for continued experimentation across the range of program areas.

DEPARTMENT OF EDUCATION ROLE

Ongoing support of general science needs, such as upgrading science teaching facilities and equipment and the calibre of instruction:

Programs directed at the classroom environment, such as surveying the correlation between teachers' education and students' test scores in science subjects;

Instructional and educational improvement at elementary and secondary levels, and at higher levels where instruction does not require advanced scientific expertise;

Science education whose aim is to provide students with scientific and technological awareness, as contrasted with the development of practitioners;

Continuing coordination with NSF on science education planning and program implementation;

In the conduct of its program, the Department will maintain links with the scientific community.

RESEARCH AND DEVELOPMENT

Both NSF and the Department should support innovation and dissemination of R & D results;

Their respective focus for such R & D should be based on the missions spelled out above, with NSF emphasizing the needs of the sciences and contributions of scientists, and the Department emphasizing the needs of general classroom instruction, including teaching technological awareness;

The Department should facilitate widespread implementation of successful new approaches, whether developed by NSF, the Department, or elsewhere.

Mr. KENNEDY. Mr. President, this amendment has been developed with the assistance, cooperation, and support of the Committee on Governmental Affairs, the While House Office of Science and Technology Policy, the National Science Foundation and the Office of Management and Budget. I ask unanimous consent to have printed at this point in the RECORD a letter of support for the proposed amendment from Dr. Frank Press, science adviser to the President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
April 2, 1979.

HON. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR TED: This letter concerns the proposed Department of Education and the transfer of certain activities from the National Sceince Foundation to the proposed department. I know that you expressed concerns in the last Congress about the Administration's proposal and also know that you have continued to be concerned with the specific provisions (Sec. 304) concerning "Transfers from the National Science Foundation" in the current proposal as it has been introduced.

Over the last several months but especially in the last few weeks, our office has worked closely with others in the Administration, officials of the National Science Foundation, representatives of the educational and science communities, and members of the staffs in the House and the Senate to improve the proposal. We have attempted to clarify the roles for the proposed department, the continuing roles of the National Science Foundation, and the relationships that would exist between the two organizations once the Department of Education is established. These discussions have resulted in new formulation of the roles of the Foundation and the proposed department.

The proposal has been strengthened considerably. Our earlier proposal did not fully recognize the continuing important role of the NSF in scientific career development, the conduct of research and development in science and technology and attendant values of public policy issues. At the same time, the proposal did not sharply focus on the special capabilities that would exist at the department. In my judgement, these dificiencies have been corrected.

for the direction and initiation and support of basic scientific research and for programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences.

Second, my amendment provides that most activities presently directed by the National Science Foundation will not be subject to transfer to the Department of Education. Those activities include:

Scientific career development;

Continuing education of scientific personnel;

Efforts to increase the participation of women minorities and the handicapped in careers in science;

Research and development affecting science learning at all educational levels, and the dissemination of results; and

Fifth. Programs which inform the general public of the nature of science and technology and of related ethical, value, and public policy issues.

Third, my amendment provides that the Department of Education must establish advisory mechanisms designed to fully involve scientists and engineers in the development, implementation, and review of science education programs administered by the Department of Education.

And fourth, my amendment provides that the secretary of the Department of Education must report to the Congress concerning the arrangements for coordinated planning and operation of sceince education programs and the steps taken Representatives and an opportunity for further adjustments if necessary to assure a firm basis for science education in the future.

I urge the Senate to accept this amendment.

Mr. RIBICOFF. Mr. President, I commend the distinguished Senator from Massachusetts and the Senator from New Mexico. I think they have improved the bill in a very important way. I am pleased to be a cosponsor of the amendment.

Mr. President, the committee has been especially interested in testimony with regard to the transfer of the science education programs to the Department of Education. Senator KENNEDY also has a long record as a strong supporter of legislation to establish a Department of Education. His testimony presented to our committee earlier this year—which reaffirmed his commitment to early enactment of the pending bill—raised important issues with regard to science which both the administration and members of our committee wanted to examine with particular care.

Those issues have now been thoroughly reviewed and, with his assistance and the President's science adviser, we have been able to develop an alternative plan for the NSF's science education programs proposed for transfer. That alternative is provided by the amendment offered today, and I am pleased to join as a cosponsor in offering it to the Senate.

The amendment has the support of the administration, the White House Office

I believe that the new statement of the respective roles is acceptable and merits Congressional support.

Yours sincerely,

FRANK PRESS,
Director.

Mr. KENNEDY. Mr. President, the National Education Association and higher education groups have also been helpful in this process. They have played an important role in calling to the attention of the Congress the need to examine with great care the impact of any transfer of science education programs from the National Science Foundation to the Department of Education.

Mr. President, my amendment will assure that the National Science Foundation continues to have the primary responsibility for the development of scientific and technical talent in this Nation. It requires that science education programs—whether administered by the NSF or the Department of Education—will draw extensively on the expertise of the scientific community and that there will be close cooperation between researchers and science educators. My amendment also provides that the President's science adviser and the Director of the National Science Foundation will be closely involved in all aspects of science education and in planning and carrying out a smooth transition for any science education programs which are transferred to the Department of Education.

I would now like to describe the substance of my amendment and its impact on science education programs.

First, the amendment reaffirms that the National Science Foundation will continue to have primary responsibility to facilitate the implementation of successful innovations.

Mr. President, in my years in the Senate as chairman of the subcommittee which has direct jurisdiction over the programs of the National Science Foundation I have been deeply involved in the development of programs to strengthen science and science education. I have had the opportunity to work closely with leaders of the scientific community in all disciplines and in all regions of the country. These eminent scientists and educators were deeply concerned over the original proposal for science education programs presented to the Congress by the administration.

Mr. President, I believe that my amendment meets many of the major concerns which have been raised over the proposed transfer. It provides that well over two-thirds of the National Science Foundation's science education programs will remain under the direction of National Science Foundation's science education directorate. It includes provisions which substantially reduce the potential for disruption in the programs which are proposed for transfer—programs which have had an outstanding record of success and whose continued strength and growth must be assured.

It is my hope that the Senate will adopt this amendment and thereby alleviate some of the concerns of scientists and educators with extensive firsthand experience in this important area. And while there may still be those who are convinced that no science education programs should be transferred I hope that the Senate's action today can lead to a productive discussion in the House of Science and Technology Policy, the National Science Foundation, and the Office of Management and Budget.

A strong, coherent program of science education is important to the new Department of Education. As part of its broad mission to improve educational programs in schools and colleges, the Department of Education will be able to concentrate on the special priority of science education only if it has the appropriate resources to do so. The bill provides these resources and the scientifically trained staff to achieve this goal.

The National Science Foundation has authority over $80 million in fiscal year 1979 devoted to science education programs, less than one-tenth of its total budget. The proposed amendment transfers approximately $25 million to the Office of Educational Research and Improvement of the Department of Education. These programs, transferred intact to the Office of Educational Research and Improvement, would be placed prominently in that Office. The Office is directly responsible to the Secretary of Education. The Office will be headed by an Assistant Secretary for Educational Research and Improvement, concerned with other programs now located in HEW's Education Division which complement the science education programs. These programs include environmental education, metric education, and other science and math programs.

It is extremely important for the Department to provide ongoing support of general science needs. This includes the upgrading of science teaching facilities and equipment and improving the quality of instruction in science. The Department will also have specific responsibility to assist with instructional material and improvement at the elementary and secondary levels and at higher levels where instruction does not require advanced scientific expertise.

These are important responsibilities for the Department of Education. The proposed transfer of some of the National Science Foundation's science education programs provides the Department of Education's Office of Educational Research and Improvement an opportunity to assist in these important endeavors.

Meanwhile, the important mission of the NSF would not be affected by the change. More than 80 percent of the NSF budget goes to basic research and supporting resources—none of which will be involved in the transfer. While the NSF advances in major new research projects, the Department of Education will work closely with both NSF and teachers to translate these findings to school-age students.

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All of the statutory authority granted to the National Science Foundation by Congress will be maintained. NSF will keep its authorization to embark on new science education programs when necessary. It will continue to support all graduate-level research training and fellowship programs as well as inservice training programs for scientists and engineers. Encouraging women, minorities, and the handicapped—all of whom are underrepresented in scientific and tech-

Mr. SCHMITT. Will the Senator yield?

Mr. PERCY. I am happy to.

Mr. SCHMITT. As I stated earlier, I feel strongly we were making a mistake in transferring any programs from the National Science Foundation to the proposed Department of Education.

I know the Committee on Governmental Affairs and its distinguished chairman and ranking Republican are in disagreement with me on this point. I would, however, like to congratulate the senior Senator from Massachusetts on his initiative to find this compromise position.

I looked over the proposal and I find it does provide that the National Science Foundation retain the most important programs now within its jurisdiction; namely, those programs most closely related to basic research.

It is my understanding the managers of the bill, as I indicated, are prepared to accept the amendment substituted by Senator KENNEDY.

At this point, I think it is in order to withdraw my amendment and ask that the Senator from Massachusetts add me, also, as a cosponsor to his amendment.

Once again, I congratulate him and find this a useful compromise.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask that the Senator from New Mexico be added as a cosponsor, and I thank the Senator from New Mexico.

I yield back the remainder of my time.

The PRESIDING OFFICER. Without

ets—than on any other item. Schooling is universally available and universally required. The proportion of children who start school earlier and continue longer has increased year by year.

It is time, Mr. President, that we show the same concern on the Federal level. The Federal Government must not usurp the place of the States and localities in providing education. But, we must insure that we do all that we can to help the States and localities provide equal opportunity education of high quality. Education in this country needs help today, and we must give our assistance. The bill which the distinguished Senator from Connecticut has crafted and brought to the floor does this admirably.

The bill is premised on the notion that we can increase attention to the proper Federal role in education through a separate organization which can devote itself to addressing that role and which can then deal effectively with others in serving educational functions. It is difficult to focus Federal attention on educational needs within the HEW context. HEW is overwhelmingly concerned with health and welfare issues and the Secretary has little time to devote to education. Education should become the focus of a Cabinet official, who has the resources and the time to devote to making the Federal effort more effective. Officers of such a Department will be able to then deal in a more direct way with others in the executive, and with Congress. A separate Department will increase the accountability to local education officials nological careers—will still be the responsibility of NSF.

The amendment assures a continuing and close relationship between science and science education. It assures that the National Science Foundation will continue to play a major role in assuring that science education programs meet the high standards which have contributed so importantly to our Nation's scientific and technical strength in the past. The amendment assures that those programs which are transferred will be protected to the greatest extent possible against any disruption. The amendment provides language assuring cooperation between NSF and the new department. With this cooperation and the streamlining of the programs involved, the Department of Education and the National Science Foundation will be working to improve the status of science education.

The ranking minority member of our committee, the senior Senator from Illinois, has also been extremely helpful in the development of this alternative. I am pleased that he, too, has joined as a cosponsor.

I ask my colleagues in the Senate to give their full support to the amendment.

Mr. PERCY. Mr. President, I commend Senator KENNEDY and Senator SCHMITT for the addition they have made, the strengthening of the bill. The colloquy we had a year ago on this same subject was very informative.

I think the solution arrived at today is proper and right. I am delighted to associate myself with it.

objection, it is so ordered.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I am glad to see legislation to establish a Department of Education debated on the Senate floor. As a member of the Subcommittee on Education, I strongly urge my colleagues to support it, as I have since the distinguished Senator from Connecticut first introduced legislation to do so.

Education is essential to the well-being of our democracy, for, in an ignorant country the people cannot choose. And, education is essential to the well-being of the people who reside in our democracy for it is the basis of the developments in the arts and sciences which are the hallmark of a progressive and civilized society. My predecessor in the Senate, Daniel Webster, noted:

> On the diffusion of education among people rests the preservation and perpetuation of free institutions.

That is why the people of America cares so much about education. State and local governments spend more on education—close to 40 percent of their budgets—and should cut down on the administrative burden of dealing with the Federal Government.

The offices that have been established within this new Department indicate the increased attention we will be able to give to the various aspects of education: Offices for elementary and secondary education; postsecondary education; occupational, community and adult education; civil rights; research and improvement; special education and rehabilitative services.

Mr. President, this legislation not only increases Federal attention to education but achieves many other objectives as well.

The bill emphasizes the need for citizen involvement in the educational process. Such involvement can be the touchstone for better education. It has always been a primary concern of mine—from parental involvement in the education of native Americans, to parental involvement in education for the educationally disadvantaged. We moved to strengthen such involvement through the Elementary and Secondary Education Act amendments last year.

The bill strengthens our ability to insure equal educational opportunities for all individuals. The Office of Civil Rights in the department is given more prominence, is insulated from programmatic pressures, and its Director will report directly to the President, Secretary, and Congress.

The new Department will allow for much better coordination of Federal programs for elementary and secondary education. The current fragmentation leaves educators on the local level no one to turn to when their problems go beyond the specific legislation administered by some official. An important focus of the new Assistant Secretary should be to insure the availability of Federal programs to all those who are eligible. Many eligible students are not being served through title I of the Elementary and Secondary Education Act; few of the eligible students are being served by bilingual education programs. The Assistant Secretary should see how we can most effectively utilize our resources in these areas.

The new department would also be able to make substantial contributions to the effective support of postsecondary education and of occupational, adult, and community education by the Federal Government.

Mr. President, I have already addressed some amendments which have been proposed to this legislation, and I will not address them again here. Several of them would not be wise additions to this bill.

Mr. President, this bill has been improved over previous bills, as well. This bill does not transfer Indian education from the Bureau of Indian Affairs, as was suggested in the committee bill last year.

So, too, we have resolved our problems with National Science Foundation programs.

We must assure that this Nation's science education programs continue to meet the standard of excellence which has contributed so importantly to this

Nation's scientific and technical strength.

Earlier in the debate the Senate adopted my amendment to assure that the National Science Foundation continues to have the primary responsibility for the development of scientific and technical talent in this country. It requires that science education programs—whether administered by the NSF or the Department of Education—will draw extensively on the expertise of the scientific community and that there will be close cooperation between scientists and science educators. It provides that 70 percent of NSF's science education programs will remain at NSF.

With the inclusion of this amendment we were able to meet many of the concerns which had been raised about this particular aspect of the bill.

Altogether then, this legislation is an admirable advance, an advance for which the chairman of the Government Affairs Committee deserves great credit.

Altogether, a new Department of Education will indicate that we, at the Federal level, recognize the Federal responsibility to assist local and State governments in their educational efforts. No more should education take a back seat. For, in education lies the future.

From: CONGRESSIONAL RECORD, April 10, 1979 S 4265

DEPARTMENT OF EDUCATION

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Senate return to the consideration of the unfinished business, for the purpose only of Mr. MORGAN's making a speech in relation thereto.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 210) to establish a Department of Education.

Mr. **MORGAN**. Mr. President, I rise in opposition to S. 210, a bill to establish a separate Cabinet level Department of Education. I thank the distinguished majority leader and the distinguished

> Too often reorganizations omit—some of them perhaps deliberately—an explicit recognition that reorganization of the executive branch . . . is not simply an exercise in improving the efficiency of Government. Reorganization is a fundamentally political act, not political in the partisan sense, but political in that every organization—and every reorganization—means a distribution or redistribution of power and influence over the substance of policy . . .

As far as I can tell, the main proponents of this bill fully intend that the Federal influence over and direction of educational policy in this country increase. Last year, I received a letter from my good friend, the Vice President, asking me to support S. 210. He listed a number of reasons for supporting this bill of which the first, and presumably the most important, was to "bring increased attention to the needs of education by providing new focus and direction at the highest levels of government." James McIntyre, Director of the Office of Management and Budget, stated in testimony before the Senate Governmental Affairs Committee, and again I quote:

> The establishment of a Cabinet level department of education will provide a base for national leadership.

Perhaps the clearest statement came from John Ryor, president of the National Education Association, when he said:

> Creating a department of education is, indeed, a profound step in which the Federal Government will be recognizing, for the first time, that it has a responsibility for education in and of itself.

support the theory that increased Federal leadership and commitment, which is the same as increased Federal control and influence, will improve matters.

Some people might argue that these quotes do not reflect the intentions or the direction of this legislation. So, let me direct the Senate to the language of the bill itself. The first purpose, in the statement of purposes, is to "insure that education receives the appropriate emphasis at the Federal level." In this context, "appropriate emphasis" must mean "greater emphasis," for if it meant less emphasis there would be no reasons for the legislation.

The fifth purpose, which was the second purpose listed in the bill last year, is to "enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness."

A vote for S. 210 is a vote to establish a department with a charter to coordinate all education activities nationwide. The power to coordinate, in this context, in my opinion, implies the power to coerce. This must lead to greater Federal influence over our educational policy.

The second purpose as stated in S. 210 is equally revealing. It is to "continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities." The committee report, in explaining this, states that—

> Equal education opportunity has been and must remain a major educational goal of the

minority leader for allowing me to make this statement prior to the adjournment for the Easter recess period, because I would like for it to be in the record so that my colleagues may know my views.

When I first became aware of this proposal, I was inclined to favor it. I believed it would lead to the improved management of Federal education programs, something every Member of the Senate would admit that we need, and the bill seemed to be an appropriate way to make progress toward that end.

But, in the last year, as I have become more familiar with this measure and its consequences, my position has slowly changed. I now believe that enactment of S. 210 would be a serious mistake.

The most serious problem with establishing a separate department of education is that it will, inevitably, lead to vastly increased Federal influence over education policy in this country. Frankly, it is hard for me to imagine a worse thing we could do in the field of education.

The specter of increased Federal influence and control is implicit in the bill itself, in the committee report, and in almost every statement made to support the concept, notwithstanding the repeated ritualistic disclaimers.

This reorganization proposal is not just an exercise in better management as many believe. For that matter, no reorganization is. Congressman BRADEMAS, the House majority whip, and a most distinguished patron of the arts and humanities for which I commend him, stated this quite clearly:

Senator RIBICOFF, who is managing this bill, has said:

> The whole system of education is dependent on the leadership and commitment the Federal Government takes. Only an increased Federal priority to education can increase the Amreican people's confidence in our educational system.

Mr. President, I have the highest amount of respect for the senior Senator from Connecticut. We agree on many issues, and have often cooperated in working for a better Federal Government. But his views, as expressed by the above quote, are directly opposite from mine. And frankly, I see little room for compromise on this issue. I would argue that the last thing the people of this country need is the leadership and commitment of the Federal Government in education.

For example, the Federal Government has been involved in public elementary and secondary education in a significant fashion since 1965. Since that time we have seen declining achievement by students in the basic skills, increased violence and vandalism in the schools, and greater use of drugs.

There is not a Member of the Senate who would deny the existence of these trends, nor would anyone deny the concurrent expansion of the Federal role. For lack of better evidence, I am hesitant about asserting the existence of a cause and effect relationship between the increasing Federal role and the decline in our schools. But, as this is important, there is more evidence supporting that relationship than there is to Federal Government.

This is a gross misreading of history. It has never—this must be emphasized—never been the policy of the U.S. Congress to promote equal educational opportunities for its own sake.

It has been the policy of the Congress and the will of the people, that all Americans have an equal opportunity in life, that Americans should not be denied this opportunity simply because they are part of a racial minority, or female, or handicapped, or because they have not had the chance to learn to speak proper English at home.

The Congress has provided assistance to State, local, and private education programs because it realized, wisely I think, that equal opportunity is best insured if everybody receives an equal education. Equal educational opportunity has not been the goal, but the means. Equal opportunity, without any limiting adjectives, has been the goal.

The same is true of every other education program, or education-related program, enacted by the Congress. There is not a single such program which has been justified on the basis that it is good for education. Student assistance programs exist to help attain equal opportunities for all. Indian education programs exist partly because of the unique trust status of the Indian tribes of America. The GI bill, which helped me to go to college, was enacted to provide veterans with needed help and to compensate them for their services rendered to this country. And we do not make research grants to universities to subsidize higher education, which it does, but in order that we might maintain our technological leadership in the case of National Science Foundation programs, to improve the health of all Americans in the case of health-related research, et cetera.

In fact, this is why there has been such difficulty in deciding what belongs in this new department. Let me list the many education-related programs which will not, or might not, be included in this bill: Veterans' education, social security education benefits, the many National Institutes of Health, the school lunch and related programs, the Indian schools, the Department of Defense schools for overseas dependents, the National Science Foundation education programs, Head Start, and the manpower training programs in the Department of Labor. We had no comparable difficulties in deciding what to put in the Department of Energy, which to me implies there was a much better rationale for creating it.

It is worth noting here that last year's version of this bill contained an open-ended prescription for Federal interference in locally and State controlled schools. It tells us that we need this bill "to promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development * * *." To quote from an article by David Breneman and Noel Epstein, which I will describe more fully in a minute—

An excellent article appeared in the August 6, 1978, Washington Post. This article, written by David Breneman, of the Brookings Institution, and Noel Epstein, an editor for Outlook and formerly for the Washington Post, contains a brilliant description of the danger that this bill will bring about Federal control over education, and I urge all my colleagues to read it before voting on final passage. The article concluded with the following sentence:

> A department (of education) is either a prescription for increased central influence over education or for excessive expectations that will only lead to more, not less, frustration.

I want to repeat that statement, Mr. President.

> A department of education is either a prescription for increased central influence over education or for excessive expectations that will only lead to more, not less frustration.

Now, what are these excessive expectations?

Many supporters of S. 210 believe that a separate department will lead to improvements in Federal education policy. I do not feel there is any basis for that conclusion; there certainly is not, judging by our experiences with the Department of Housing and Urban Development.

Establishing a separate department will expand the bureaucracy, and will almost surely increase the pressure on Congress to spend more money on education. Creation of a separate department will also not magically lead to new, major initiatives in education, although, as I said, it will lead to more spending on bureaucracy. At the present time, the dominant role in the formation of policy initiatives, within the administration, is held directly by the White House through the Office of Management and Budget. Establishing the new department will not change this, unless the President so decides, and he has given no indication that he will so decide.

Many also believe that this bill will allow the Federal Government to save money through the ending of program duplication and better program coordination. In the first place, Congress could bring about that result simply by ordering a reorganization of the education bureaucracy with HEW. It could start by combining the Office of the Commissioner of Education and that of the Assistant Secretary for Education. We do not need a new department to deal with this problem.

Second, this bill will cost the taxpayers money, according to Congressional Budget Office estimates, in order to pay for the additional bureaucracy. The cost is small, but it is there, and it will only grow. The estimated cost of this bill is $5.2 million in fiscal year 1980, $7.45 million in fiscal 1981, $9.9 million in fiscal 1982, $9.16 million in fiscal 1983, and $9.62 million in fiscal 1984, for a 5-year total of about $41.3 million.

I might add that I have a lot of trouble

> Who decides what is "an adequate skill level"? Is Washington to establish minimum skill requirements? Are we talking about paving the way for a national test, a move proposed . . . but successfully thwarted thus far?

This language has now, fortunately, been removed. But the same people are pushing this Department, and the same attitudes still prevail. I would suggest that once the foot is in the door we will see the same type of proposals will be back in the next session and in future sessions.

Albert Shanker, president of the American Federation of Teachers, in a statement opposing the establishment of this new department, described the problem of Federal control extremely well. He said:

> Our public school system is built upon a system of local control by lay school boards. That this system needs a larger share of Federal assistance is beyond dispute.

Before I go further, I must say that I am not at all sure I agree with this last sentence, largely because of what Mr. Shanker said next:

> But the degree to which this should mean a greater amount of Federal control is a question that has not been discussed. None of the plants to create a separate department of education address this thorny and difficult issue. Namely, what is the Federal role on education policy? No other domestic sector of Cabinet-level status compares with education in terms of the clear limits of Federal authority. Is the creation of a cabinet-level department in an area which constitutionally is left to the States and localities wise without at least exploring these questions further?

cation, but neither of these will bring about, by themselves, better policy.

In fact, there is a good chance that having a separate department will lead to worse policy. It is interesting to note that the one Federal education program about which we never get complaints, the one which I believe to be working the best, is not controlled by the education bureaucracy. I am, of course, referring to the Head Start program.

The Head Start program, which is operated by HEW's Administration for Children, Youth, and Families, is not strictly an education program, but rather, and I now quote from last year's committee report on the Department of Education bill—

> Provides comprehensive services including health, nutrition, education, dental, mental health, parental involvement and social services. The outstanding success of this program can be partially attributed to Head Start's unique characteristics—significant parental involvement, comprehensive services and a diverse Federal-to-local delivery system.

The Governmental Affairs Committee decided, unanimously, not to place the most successful Federal education program in the new department because they were afraid that it might become dominated by narrow educational interests. This unanimous decision does not say much for confidence in the new department. Let me quote Albert Shanker again:

> One of the problems with education policy-making thus far is that it has been too narrowly conceived. A separate department would only exacerbate this tendency.

with these estimates. It is hard for me to believe that a bill which authorizes the appointment of 63 additional supergrades, and further allows the new Secretary to appoint an additional 155 people above that as he sees fit is only going to cost $41 million in 5 years. I simply do not believe it.

As for the estimate offered by the Office of Management and Budget that this bill will eventually save 350 to 450 positions and $100 million annually in expenditures, one should note that this estimate has been asserted without any supporting evidence. It is an assertion of the OMB.

Finally, I should like to add some cautionary notes. As a Washington Post editorial stated, last April:

> One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the school children and their parents . . . but much more probably it would be the National Education Association. In a way, this would be giving them their own department.

It makes no sense to give narrow special interest groups their own department, and the groups we are talking about here are too often hostile to the needs and desires of schoolchildren and their parents.

I think this is all too obvious from the number of teacher strikes supported by the National Education Association, and the literally hundreds of thousands of days of school lost by tens of thousands of schoolchildren all across America We in the District of Columbia watched the schoolchildren in the District be deprived of more than 3 weeks of school, right in this crucial stage of a school year. We do not know what harm has been done to these youngsters because of the strike. We wonder, sometimes, whether the concern is more for the youngsters, the students and pupils, or whether it is for the selfish interest of those who are advocating such actions.

Many educational groups, for example, were opposed to Senator Hatch's amendment to the Elementary and Secondary Education Act that required parental consent before any child could be subjected to psychiatric or psychological examination, testing or treatment, or before any child could be placed in an innovative program aimed at behavioral modification. Equally, many education interest groups are bitterly opposed to the demand, by parents, for minimum competency testing in the schools. Do we really want to shift power in setting education policy from parents to these groups?

Finally, considering the declining number of children in this country, we may be creating this new Department right at the time when the Federal role in education would normally begin to decline. The Senate has a bill before us, S. 1780, which also will lead to a declining Federal bureaucratic role in education.

If a breaking up of HEW is desirable, other options may be much more desirable. For example, the Federal role in health policy has been growing constantly, and there is currently a bill

Passing S. 210 is not a good idea, and I urge my colleagues to assess the arguments and vote against it.

UP AMENDMENT NO. 74

(Purpose: To clarify the purposes and responsibilities of the Federal Interagency Committee on Education)

Mr. THURMOND. I understand amendments are now in order to S. 210.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes an unprinted amendment numbered 74.

On page 96, at line 15, strike all after "improvement" and strike all of line 16 and insert in lieu thereof the following:

"Of the administration and coordination at Federally funded education programs; and"

Mr. THURMOND. Mr. President, section 214(b)(4) reads as follows:

The improvement, development, and oversight of a comprehensive Federal policy for education; and

Mr. President, the amendment I have offered would read this way:

The improvement of the administration and coordination of federally-funded education programs.

Mr. President, I have conferred with the leaders of the bill and they have

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 75

(Purpose: To require the establishment of an identifiable administrative unit in the Office of the Secretary of Health and Human Services to coordinate programs significantly affecting handicapped individuals)

Mr. LEVIN. Mr. President, on behalf of Senator Cranston and Senator Williams I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. Levin), for Mr. Cranston, proposes an unprinted amendment numbered 75.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 145, between lines 6 and 7, insert the following:

COORDINATION OF PROGRAMS AFFECTING HANDICAPPED INDIVIDUALS

Sec. 513. The Secretary of Health and Human Services shall establish within the Office of the Secretary of Health and Human Services an identifiable administrative unit to identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting before the Senate to establish a separate Department for Health Affairs. If we enact comprehensive national health insurance, may we want a Department of Health and a Department of Education and Welfare? We might want a Department of Education and Labor. There are other options, and making this change now will preclude the Congress from adopting a better choice, one which might become clear in the near future.

I certainly agree that better management of Federal education programs and improvements in policy are necessary. I also agree that we must simplify our existing education bureaucracy, eliminate program duplication, and establish better coordination between programs. All these could be accomplished without establishing a new Cabinet-level department.

I do not believe that we need this new department. I also do not believe the majority of American people want this department. I know that the American Federation of Teachers does not want this, that the AFL-CIO is against it, that the U.S. Catholic Conference does not want it, and I know that many civil rights activists do not want it. Last year, I said that as more people become aware of this proposal, I believe a great deal of opposition will surface. Events since then have proven this prediction to be correct. If this bill is passed, many Americans will be outraged. At a time when they are asking for less Federal spending and less Federal involvement in their lives, they are not going to understand why the Senate wants to create another bureaucracy.

agreed to accept this amendment. I say that the way the portion of the bill reads now that we are amending might be misconstrued. It might be construed that this Department of Education is going to come up with a comprehensive Federal policy for education for the whole Nation and States of the Nation, and that is the very thing I think the chairman of the committee and the ranking member had in mind to avoid when this bill was prepared.

They have agreed to accept this amendment to clarify that point so there would be no question as to just what it means.

Mr. LEVIN. Mr. President, I am pleased to accept Senator THURMOND's amendment. It clarifies the function of the Federal Interagency Committee on Education and I hope it is accepted.

Mr. PERCY. Mr. President, we very much appreciate this amendment from our distinguished colleague. I know of no objection to it on this side of the aisle and am pleased to accept it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LEVIN. I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (UP No. 74) was agreed to.

Mr. THURMOND. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

handicapped individuals carried out by or under the Department of Health and Human Services, and to promote efficiency among such programs. Such unit shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

On page 145, line 8, strike out "Sec. 513." and insert "Sec. 514.".

On page 73, in the table of contents, renumber the item relating to section 513 as the item relating to section 514 and insert immediately after the item relating to section 512 the following:

"Sec. 513. Coordination of programs affecting handicapped individuals.".

Mr. LEVIN. Mr. President, the amendment is designed to establish within the Office of the Secretary of Health and Human Services an identifiable administrative unit to coordinate programs significantly affecting handicapped individuals carried out by the Department of Health and Human Services. The Rehabilitation Services Administration would be transferred to the new Department; however, entitlement programs would not be transferred. The programs remaining in the Department of Health and Human Services are concerned with developmental disabilities and supplemental security income for the disabled. The unit would also coordinate those programs with the handicapped programs in the Department of Education.

COMBINATION OF PROGRAMS AFFECTING HANDICAPPED

● Mr. CRANSTON. Mr. President. I thank the chairman of the Government Affairs Committee, my colleague from Connecticut (Mr. RIBICOFF), for offering, on my behalf, an amendment to establish in the Office of the Secretary of Health and Human Services an identifiable administrative unit to coordinate within that Department programs significantly affecting handicapped individuals. In addition, the unit would be responsible for coordinating, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

Mr. President, I am an original cosponsor of S. 210, the proposed Department of Education bill, just as I was a cosponsor of S. 991, last year's Department of Education bill. However, as I expressed in my February 6 statement upon the introduction of S. 210. I continue to have reservations about the prospective transfer of the Rehabilitation Service Administration—RSA—to the new Department.

As a result of such a transfer, it is likely that RSA's conduct of services for handicapped individuals would be isolated from conduct of such interrelated programs significantly affecting handicapped individuals as the developmental disabilities program, titles II and XVI of the Social Security Act, and enforcement by the Office for Civil Rights of section 504 of the Rehabilitation Act of 1973—Public Law 93-112.

Because the RSA transfer has been retained in the bill as reported, I believe that it is extremely important to establish an entity within the Department of Health and Human Resources to assure manner. It may well be that to accomplish this goal, the entity's responsibilities will need to be expanded—by administrative action which I believe the Secretary would be authorized to take—to include efforts to improve coordination with appropriate programs throughout the Federal Government.●

Mr. LEVIN. Mr. President, I urge the adoption of this amendment on behalf of Senator CRANSTON.

Mr. PERCY. Mr. President, I know of no objection to this amendment on this side of the aisle.

Senator CRANSTON deserves tribute for thinking this problem through and for suggesting a structure of organization that will improve attention given the handicapped.

I approve its adoption and accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LEVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 75) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

imous consent that reading of the amendent be dispensed with and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, line 9, insert "(a)" after "Sec. 428.".

On page 131, between lines 12 and 13, insert the following:

(b) Section 400(a)(3)(B) of the General Education Provisions Act is amended to read as follows:

"(B) Each request for collection of information or data acquisition activities shall be submitted to the Director of the Office of Management and Budget by each relevant Federal agency at the same time that it is submitted to the Secretary for review and coordination under this section. Whenever the Director of the Office of Management and Budget exercises his authority under section 3509 of title 44, United States Code, he shall make a decision thereon within the review period provided in subsection (b) and shall furnish such decision to the Secretary and to the Federal Education Data Acquisition Council. The decision of the Director shall control, unless the Secretary, in carrying out the provisions of this section, determines that additional elements in the proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly in which case the decision of the Secretary shall control. If the Director does not exercise his authority under such section 3509, within the review period provided in subsection (b), the decision of the Secretary under this section shall control.".

Mr. LEVIN. Mr. President, this amend-that the limited resources available for programs significantly affecting handicapped individuals are spent in the wisest and least duplicative possible manner. The role of such an entity, as provided for in my amendment, would be to identify, assess, and seek to coordinate, and eliminate conflict, duplication and inconsistencies and promote efficiency among, programs significantly affecting handicapped individuals within the proposed Department of Health and Human Resources, and to seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals in the new Department of Education.

Mr. President, I initially proposed that the entity to be established under my amendment be charged with the responsibility of coordinating appropriate programs within the Department of Health and Human Services with appropriate programs carried out by or under any other Federal department, agency, or instrumentality. However, my colleague from Connecticut (Mr. RIBICOFF) has prevailed upon me to limit the entity's statutory responsibilities to be coordination only of appropriate programs affected by the establishment of the Department of Education.

Mr. President, I intend to oversee the activities of the entity that would be established by my amendment in order to assure that it is doing all that is feasible to assure that the limited resources available throughout the Federal Government for programs significantly affecting handicapped individuals are spent in the wisest and least duplicative

Mr. ROBERT C. BYRD. Mr. President, I understand there will be another amendment to the Department of Education bill.

Am I correct? May I ask the Senator from Michigan (Mr. LEVIN)?

Mr. LEVIN. Yes.

ORDER FOR CONSIDERATION OF S. 413, THE AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of that amendment, the Senate then turn—and this is cleared with the minority—upon the disposition of the additional amendment which will shortly be offered, I ask unanimous consent that the Senate then turn for the rest of today to consideration of the bill S. 413, Calendar Order No. 55, the airport aircraft noise bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 76

(Purpose: To revise certain provisions of section 400A of the General Education Provisions Act, relating to paperwork control)

Mr. LEVIN. Mr. President, on behalf of Senator CHILES, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. CHILES, proposes an unprinted amendment numbered 76.

Mr. LEVIN. Mr. President, I ask unan-

ment states that requests for collection of information or data acquisition activities shall be submitted to the Director of the Office of Management and Budget by each relevant Federal agency at the same time it is submitted to the Secretary of Education.

The amendment would not jeopardize the provisions of last year's education amendments for a Federal education data acquisition council made up of representatives of each Federal agency that puts out surveys, reports, applications, and so forth, to be completed primarily by educators.

Senator WILLIAMS, Senator PELL, Senator JAVITS, and the other members of the Education Subcommittee are to be commended for their leadership in establishing a workable procedure for interagency coordination of paperwork. This system allows the bureaucrats to cooperate to cut out duplication, unnecessary requests for data, and monitor their own progress in relieving this burden and expense to educators. The amendment would strengthen and reinforce the FEDAC system by providing for the Office of Management and Budget to review data requests simultaneously and retain responsibility for Government-wide paperwork policy.

Mr. PERCY. Mr. President, at the time the Governmental Affairs Committee and the Government Operations Committee established the Office of Management and Budget, it put tremendous emphasis upon management, not just budget. It is not just a green eyeshade operation which is to look at the management of the Federal Government.

One of the greatest problems we have in Federal Government is control of paperwork. Therefore, it is perfectly proper to direct requests for collection of information and data to the Office of Management and Budget.

I commend Senator CHILES, who has been a watchdog for this phase of Government operations, for this amendment.

I know of no objection to this amendment on this side of the aisle. I find it acceptable.

Mr. LEVIN. Mr. President, I yield back the remainder of m time, yand I urge the adoption of the amendment.

Mr. PERCY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. LAXALT. Mr. President, I support all well reasoned efforts to improve the quality of education in this country. Unfortunately, the pending legislation (S. 210) which would create a Federal Department of Education, is neither well reasoned nor an improvement in the quality of our educational system.

There are many praiseworthy Federal programs designed to benefit the educa-

It is the diversity and mixture which has provided educational opportunities for ever-increasing numbers. It has also generated a variety of sources of funding and has inspired the kinds of dedication and leadership needed to create and sustain institutions. Perhaps most importantly, it has largely concentrated administrative energies and decision-making authority at the State and local level where the students are—and where the problems emerge—rather than at far away centers setting inflexible rules in their prescription for a national system.

Short of national control, proponents of S. 210 argue that the current low bureacratic status of the Office of Education means that the President pays less attention to education problems than if there were a Cabinet Department of Education. Their reasoning follows that creation of a Department of Education would thus increase the visibility and prestige given to education needs at the Federal level.

But visibility and prestige for what? What can be done to stop the giant hand of the Federal Government from reaching into local affairs until it effectively can override the wishes of local school boards and suppress or ignore the desires of parents. There are no effective guarantees against such a move. The bureaucracy's track record speaks for itself.

In several places in the bill and the committee's report, we find the phrase "supplement and complement." Local and State efforts in education, we are told, will be "supplemented and complemployment of 16,000 bureaucrats. Creating a new layer of bureaucracy is a clear signal for more administrative structure—not less.

Whatever the deficiencies of existing educational forms and practices—and there are many—let us resolve them without installing an overarching authority and attendant bureaucracy that will inevitably bring remoteness and rigidity in place of the ranging resiliency of our present pluralism. Many rhetorical assertions have been made about presumed benefits of the proposed department, but the basic, substantive question has yet to be answered. How will this proposal improve the quality and quantity of services available to children in their schools, families, and communities? I am afraid that this question has yet to be satisfactorily answered, and that the harmful effects of centralization that will be brought about by passage of S. 210, will be both regrettable, and once in place, nearly impossible to reverse.●

tional process. Many do as they were intended. And they have managed to accomplish their tasks with relatively little impact on local teaching practices. As it is now constituted, the Federal education effort aids local school districts, but with few exceptions it is in no position to exercise control.

Recently, in a briefing in which he expressed his support for the creation of a Cabinet-level Department of Education, Vice President Mondale made the point that the United States is the only major industrial democracy in the world that does not have a department or ministry of education. In my opinion, this is neither a symptom nor a source of what is wrong with American education. You would hardly judge from the Vice President's remark that the United States is also the only major industrial democracy—or any sort of country—in the world in which three-quarters of the children graduate from high school, and half of those graduates go on to college.

The most appealing and distinctive feature of American education is its diversity and the absence of any single, integrated national control from above. Though the United States offers more educational opportunities to more people than any nation has ever attempted, it has done so without any national plan or governing authority.

Given the complexity and sensitivity of the field, the variety of our needs, and the size and divergent interests of different sectors and regions, I feel that our educational system has served us well, and that we should strive to maintain its multiformity.

mented" by the Department of Education. I doubt you can find a Federal bureaucrat entrenched anywhere in Government who would not love to get his teeth into that phrase.

You do not need a crystal ball to image this scenario: A low-level official in the Department of Education sees something he does not approve of in a local school program. He passes his concern up the line and at some point a Federal official decides there is a need to "supplement and complement" the local program. Local officials are called in and advised that if changes are not made, the school district stands to lose Federal funds for certain programs. That would be a hefty threat, and one well listened to, in today's budget conscious times.

The point, simply, is that via the Department of Education, the Federal Government will have the ready-made two-by-four with which to get the attention—and the subservience—of local educators.

A major argument put forth in support of S. 210 is that by consolidating education programs in a separate department, improved management and efficiency will result. It is absurd to believe that Federal regulations and redtape were ever reduced by creating a new Government agency. Duplication, grantsmanship, reporting, and paperwork, not related to program goals assigned by the Congress, will only be exacerbated by a Federal education department. A new Department of Education would create a number of top level positions, a budget of a minimum of $14 billion, and total

From: CONGRESSIONAL RECORD, April 26, 1979 S 4761

DEPARTMENT OF EDUCATION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 210) to establish a Department of Education.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor during the consideration of

"(I) an Assistant Secretary for Nonpublic Education;

"(J) an Assistant Secretary for University Research and Development;

"(K) an Assistant Secretary for Veterans' Education;

"(L) an Assistant Secretary for Health Education;

"(M) an Assistant Secretary for Early Childhood Education;

"(N) an Assistant Secretary for School Nutrition Services;

"(O) an Assistant Secretary for Indian Education;".

On page 81, line 5, strike out "(F)" and insert "(P)".

On page 81, line 6, strike out "(G)" and insert "(Q)".

On page 81, line 7, strike out "(H)" and insert "(R)".

On page 81, line 8, strike out "(I)" and insert "(S)".

On page 81, line 24, strike out "(G)" and insert "(Q)".

On page 97, strike out lines 19 through 21.

On page 97, line 22, strike out "(xiv" and insert "(xi)".

On page 97, line 23, strike out "(xv)" and insert "(xii)".

On page 97, line 24, strike out "(xvi)" and insert "(xiii)".

On page 105, strike out lines 7 through 12, and insert the following:

"(c)(1) There are transferred to the Secretary, all functions of the Secretary of Health, Education, and Welfare—

"(A) under sections 301, 304, 306, 307, 308, 310, and 311 of the Public Health Service Act, relating to the provision of support for training and research and technical assistance in the areas of health care technology, health statistics, and health education information;

"(B) under section 301 of such Act, relating to the granting of awards for research

"(N) under section 1131 of such Act, relating to the establishment of comprehensive hemophilia diagnostic and treatment centers;

"(O) under section 410 of the Drug Abuse Office and Treatment Act of 1972, relating to demonstration and education programs concerning drug abuse;

"(P) under section 410 of such Act, relating to training programs for personnel in the area of drug abuse;

"(Q) under part B of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, relating to alcohol training programs;

"(R) under section 401 of the Older Americans Act of 1965, relating to special programs for training of personnel to provide services for the aging;

"(S) under section 421 of such Act, relating to demonstration projects for services to the elderly;

"(T) under part A of title V of the Economic Opportunity Act of 1964, relating to child development and Project Head Start;

"(U) under title XX of the Social Security Act, relating to grants for the training and retraining of staff who provide services under such title;

"(V) with respect to programs for physical fitness and sports established pursuant to Executive Order 11562, issued September 25, 1970; and

"(W) any other function of the Secretary of Health, Education, and Welfare not specifically transferred by this paragraph which the Director of the Office of Management and Budget determines to relate to health manpower training.

"(2) There are transferred to the Secretary all functions of the Surgeon General of the United States—

"(A) under section 303 of the Public

S. 210: James Moors, Chester Finn, James Davidson, Paul Rosenthal, Paul Hoff, Margaret Evans, and Richard Woods.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Bob Banks, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

AMENDMENT NO. 132

(Purpose: To perfect and complete the proposed Department of Education)

Mr. MOYNIHAN. Mr. President, I call up my printed amendment No. 132 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes amendment No. 132.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 81, between lines 4 and 5, insert the following:

"(F) an Assistant Secretary for Employment Training;

"(G) an Assistant Secretary for the Arts and the Humanities;

"(H) an Assistant Secretary for Graduate Education;

and development in the areas of mental health, drug abuse, and alcoholism;

"(C) under sections 301 and 311 of such Act, section 502(a) of the Coal Mine Health and Safety Act of 1969, and section 21 of the Occupational Safety and Health Act of 1970, relating to grants for training in the area of occupational safety and health;

"(D) under section 472 of the Public Health Service Act, relating to the Alcohol National Research Service Awards, the Drug National Research Service Awards, and the Mental Health National Research Service Awards;

"(E) under part B of title VII of such Act, relating to the provision of grants for training in the area of family medicine;

"(F) under subpart 4 of part C of title VII of such Act, relating to the National Health Service Corps Scholarship Program;

"(G) under section 770 of such Act, relating to the provision of capitation grants to improve the quality of schools in the health profession;

"(H) under section 772 of such Act, relating to grants to health professions schools for special projects, startup assistance, and assistance for financial distress;

"(I) under section 792 of such Act, relating to special project grants for assistance in the training of personnel in the allied health professions;

"(J) under sections 801 and 805 of such Act, relating to the provision of grants, loan guarantees, and interest subsidies for the construction of nursing schools;

"(K) under section 810 of such Act, relating to the provision of capitation grants for the support of education in nursing schools;

"(L) under sections 820, 821, and 822 of such Act, relating to special projects for improvements in nurse training, nurse practitioner training programs, and advanced nurse training programs, respectively;

"(M) under section 1003 of such Act, relating to training grants and contracts concerning family planning services;

Health Service Act, relating to training grants in the areas of mental health, alcoholism, and drug abuse; and

"(B) under section 422(e) of such Act, relating to grants for continuing dental education and training in expanded auxiliary management.

"(d) The National Institutes of Health are transferred to the Department.".

On page 106, between lines 21 and 22, insert the following:

"(d) There are transferred to the Secretary all functions of the Secretary of Defense—

"(1) relating to the provision of loans of industrial equipment to educational institutions; and

"(2) under section 201 of the Federal Civil Defense Act of 1950, relating to the development of the capabilities of architectural or engineering students to assist in civil defense efforts.".

On page 106, line 22, strike out "TRANSFERS OF FUNCTIONS FROM" and insert "TRANSFER OF".

On page 106, beginning with line 24, strike out through line 23 on page 107 and insert the following:

"SEC. 303. (a) There is transferred to the Department the National Science Foundation, and there are transferred to the Secretary all functions of the Nationl Science Foundation or the Director of the National Science Foundation.

"(b) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function, office, agency, or bureau transferred under this section are transferred to the Department.".

On page 108, strike out lines 3 through 9, and insert the following:

"SEC. 304. (a)(1) There are transferred to the Secretary all functions of the Attorney

General and the Law Enforcement Administration—

"(A) under section 406(b), (c), and (f) of Omnibus Crime Control and Safe Streets Act of 1968, relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program;

"(B) under section 406(e) of such Act, relating to the Law Enforcement Assistance Educational Development Program; and

"(C) under section 407 of such Act, relating to the Law Enforcement Assistance Training Program.

"(2) There are transferred to the Secretary all functions of the Attorney General—

"(A) under the Comprehensive Drug Abuse Prevention and Control Act of 1970, relating to the training of professional and enforcement personnel in the area of narcotics and dangerous drugs and to the provision of technical assistance for public education concerning drug abuse; and

"(B) under sections 332(b) and 346 of the Immigration and Nationality Act, relating to citizenship education and training.

"(b) The National Institute of Juvenile Justice and Delinquency Prevention is transferred to the Department.

"(c) The National Institute of Corrections established pursuant to sections 4351 through 4353 of title 18, United States Code, is transferred to the Department.".

On page 108, strike out lines 18 through 21, and insert the following:

"Sec. 306. (a) There are transferred to the Secretary all functions of the Secretary of Labor or the Department of Labor—

"(1) under section 303(c)(2) of the Comprehensive Employment and Training Act;

"(2) under the Comprehensive Employment and Training Act which relate to the program commonly known as the Apprenticeship Outreach Program;

"(3) under part B of title III of such Act, of Standards, and the National Bureau of Standards under the Act of March 1, 1901 (56 Stat. 1449), which relate to the provision of calibration and testing services to State and local governments, academic institutions, businesses, organizations, and individuals.

"TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF ENERGY

"Sec. 309. There are transferred to the Secretary all functions of the Secretary of Energy—

"(1) under subsections (a) and (b) of section 31 of the Atomic Energy Act of 1954, which relate to the provision of—

"(A) research and training experience to college and university science and engineering faculty and students;

"(B) training or retraining concerning energy resources to college science and engineering faculty members and high school science and social science teachers;

"(C) assistance to colleges and universities in the acquisition of nuclear materials and the use of research reactors for nuclear science and engineering educational programs;

"(D) traineeships for graduate engineering students in fields relating to energy conversion, health and safety, and environmental sciences and engineering; and

"(E) used nuclear equipment to colleges and universities in the United States in order to allow such colleges and universities to equip laboratories for instructional purposes; and

"(2) under sections 3 and 141(b) of such Act, relating to the establishment of motion picture film libraries, the provision of information services such as exhibits, public speakers, publications, and reference and analysis services, and the establishment of citizens' workshops in fields relating to energy.

tional centers in the United States for the purpose of strengthening and carrying out programs for the economic and social development of other countries; and

"(2) under the Mutual Educational and Cultural Exchange Act of 1961, relating to educational exchange programs for graduate students and university lecturers and research scholars.

"TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF TRANSPORTATION

"Sec. 312. (a) There are transferred to the Secretary all functions of the Secretary of Transportation—

"(1) under section 92 of title 14, United States Code, which relate to the Coast Guard Cooperative Marine Sciences Program; and

"(2) under sections 10 and 11 of the Urban Mass Transportation Act of 1964, relating to grants for urban mass transportation managerial training and for university research and training in urban mass transportation, respectively.

"(b) There are transferred to the Secretary all functions of the Secretary of Transportation and the Administrator of the Federal Aviation Administration under the Federal Aviation Act of 1958 which relate to aviation education.

"TRANSFER OF FUNCTIONS FROM THE COMMUNITY SERVICES ADMINISTRATION

"Sec. 313. There are transferred to the Secretary all functions of the Director of the Comunity Services Administration under title II of the Economic Opportunity Act of 1964.

"TRANSFERS FROM THE GENERAL SERVICES ADMINISTRATION

"Sec. 314. (a) There are transferred to the Secretary all functions of the Administrator of General Services—

"(1) under chapter 21 of title 44, United relating to grants for doctoral dissertation in employment and training research and institutional grants for employment and training research;

"(4) under part B of title IV of such Act, relating to the Job Corps; and

"(5) under the National Apprenticeship Act of 1937, relating to apprenticeship training programs.".

On page 108, line 23, insert "(1)" immediately before the period.

On page 108, immediately after line 23, insert the following:

"TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF AGRICULTURE

"SEC. 307. There are transferred to the Secretary all functions of the Secretary of Agriculture or the Department of Agriculture—

"(1) with respect to the operation of the Graduate School, and

"(2) under the National School Lunch Act and the Child Nutrition Act of 1966.

"TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF COMMERCE

"SEC. 308. (a) There are transferred to the Secretary all functions of the Secretary of Commerce—

"(1) under the Maritime Academy Act of 1958; and

"(2) under the Act entitled 'An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes', approved September 9, 1950 (64 Stat. 823)

"(b)(1) There are transferred to the Secretary all functions of the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, and the National Oceanic and Atmospheric Administration under the National Sea Grant College and Program Act of 1966.

"(2) There are transferred to the Secretary all functions of the Secretary of Commerce, the Director of the National Bureau

"TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF THE INTERIOR

"SEC. 310. (a) There are transferred to the Secretary all functions of the Secretary of the Interior—

"(1) relating to the education of Indians, Alaskan Natives, and Aleuts;

"(2) under the Act entitled 'An Act to promote the development of Indian arts and crafts and to create a Board of assist therein, and for other purposes', approved August 27, 1935 (49 Stat. 891);

"(3) under title I of the Water Resources Research Act of 1964, relating to the provision of assistance and grants to State water resources research institutes; and

"(4) under sections 300 and 304 of such Act, relating to the stimulation of research in water resources and the dissemination and cataloging of information concerning such research.

"(b)(1) There are transferred to the Secretary all functions of the Secretary of the Interior, the Bureau of Mines, and the Director of the Bureau of Mines under section 15 of the Federal Metal and Nonmetallic Mine Safety Act and under section 502 of the Federal Coal Mine Health and Safety Act of 1969.

"(2) There are transferred to the Secretary all functions of the Secretary of the Interior, the Director of the National Park Service, and the National Park Service which relate to programs concerning national environmental study areas and the development of national environmental education.

"TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF STATE

"SEC. 311. There are transferred to the Secretary all functions of the President with respect to and administered by the Secretary of State—

"(1) under section 211(d) of the Foreign Assistance Act of 1961, relating to the provision of assistance to research and educa-

States Code, relating to the provision of reference services to the public and to agencies of the Federal Government concerning the records of the Federal Government and historical materials in Presidential libraries; and

"(2) under sections 2110 and 2307 of such title, relating to the provision of audiovisual materials to the public.

"(b) The Consumer Product Information Coordinating Center, established pursuant to Executive Order 11566, issued October 26, 1970, is transferred to the Department.

"TRANSFERS OF FUNCTIONS FROM THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"SEC. 315. There are transferred to the Secretary all functions of the Administrator of the National Aeronautics and Space Administration and the National Aeronautics and Space Administration under section 203 (a)(3) of the National Aeronautics and Space Act of 1958 which relate to the space science education project and the technology utilization project.

"TRANSFERS OF FUNCTIONS FROM THE VETERANS' ADMINISTRATION

"SEC. 316. (a) There are transferred to the Secretary all functions of the Administrator of Veterans' Affairs—

"(1) under sections 4101(b)(1) and 4114 (a)(3) of title 38, United States Code, relating to the education and training of health services personnel;

"(2) under subchapters II, III, and IV of chapter 82 of such title, relating to the provision of grants to affiliated medical schools and the provision of assistance to health manpower training institutions;

"(3) under chapters 32, 34, and 36, relating to educational assistance to veterans;

"(4) under chapter 31 of such title, relating to vocational rehabilitation for disabled veterans; and

"(5) under chapter 35 of such title, relating to educational assistance to dependents of veterans.

"(b) In carrying out the functions transferred under subsection (a)(1), the Secretary shall consult with the Administrator of Veterans' Affairs in order to assure the efficient administration of such functions.

"TRANSFERS OF FUNCTIONS FROM THE ENVIRONMENTAL PROTECTION AGENCY

"Sec. 317. There are transferred to the Secretary all functions of the Administrator of the Environmental Protection Agency—

"(1) under section 103(b) of the Clean Air Act, which relate to the provision of fellowships and manpower training grants in the area of air pollution control;

"(2) under sections 7007 and 8001 of the Solid Waste Disposal Act, relating to grants for occupational training involving the design, operation, and maintenance of solid waste disposal systems and grants for research in areas relating to solid waste disposal, respectively;

"(3) under section 104(g)(3)(A) of the Federal Water Pollution Control Act, relating to grants for graduate training in water pollution control;

"(4) under sections 109, 110, and 111 of such Act, relating to grants to improve the training and education for undergraduate students in the area of water quality control;

"(5) under sections 104(b)(5) and 104(g)(3)(B) of such Act, relating to fellowships in the area of water pollution control.

"TRANSFER OF THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

"Sec. 319. (a) The National Foundation on the Arts and the Humanities, together with the National Endowment for the Arts and the National Endowment for the Humanities, are transferred to the Department.

"(b) All officers, employees, assets, liabili-

"(5) with respect to the provision of general and specialized reference and bibliographic services;

"(6) with respect to the provision of research and referral services in science and technology; and

"(7) with respect to the provision of reference and consultation services in the preservation, restoration, and protection of library materials.

"TRANSFERS OF FUNCTIONS FROM THE GOVERNMENT PRINTING OFFICE

"Sec. 322. There are transferred to the Secretary all functions of the Superintendent of Documents under chapter 19 of title 44, United States Code, relating to Federal depository libraries.

"TRANSFERS OF FUNCTIONS FROM THE SMITHSONIAN INSTITUTION

"Sec. 323. (a)(1) There are transferred to the Secretary all functions of the Board of Regents of the Smithsonian Institution and the Smithsonian Institution under sections 5579 through 5593 of the Revised Statutes which relate to—

"(A) programs of basic research and public education;

"(B) academic appointments of scholars and students to study at the Smithsonian Institution;

"(C) the Chesapeake Bay Center for Environmental Studies;

"(D) the provision of educational services to elementary and secondary schools;

"(E) the international exchange of scientific and literary publications and governmental documents;

"(F) the provison of assistance and advice to museums, including training, advisory services and counseling, direct payments, and dissemination of technical information;

"(G) the Smithsonian Science Information Exchange, Inc.;

"TRANSFER OF FUNCTIONS RELATING TO THE PROVISION OF FINANCIAL ASSISTANCE TO COLLEGES AND UNIVERSITIES FOR RESEARCH AND DEVELOPMENT

"Sec. 327. (a) There are transferred to the Secretary all functions of—

"(1) the Secretary of Health, Education, and Welfare;

"(2) the Secretary of Defense;

"(3) the Secretary of Energy;

"(4) the Secretary of Agriculture;

"(5) the Secretary of the Interior;

"(6) the Secretary of Commerce;

"(7) the Secretary of Transportation;

"(8) the Secretary of Labor;

"(9) the Secretary of State;

"(10) the Secretary of the Treasury,

"(11) the Secretary of Housing and Urban Development;

"(12) the Attorney General;

"(13) the National Science Foundation and Director of the National Science Foundation;

"(14) the Administrator of the National Aeronautics and Space Administration;

"(15) the Administrator of the Agency for International Development;

"(16) the Administrator of the Environmental Protection Agency;

"(17) the Chief of the Army Corps of Engineers;

"(18) the Director of the Arms Control and Disarmament Agency;

"(19) the Chairman of the Consumer Product Safety Commission;

"(20) the Board of Regents of the Smithsonian Institution;

"(21) the Administrator of the Veterans' Administration; and

"(22) the Chairman of the Nuclear Regulatory Commission,

which relate to the provision of financial assistance, by way of grants, contracts, or other arrangements, to colleges and universities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function, office, agency, or bureau transferred under this section are transferred to the Department.

"TRANSFERS OF FUNCTIONS FROM ACTION

"Sec. 319. There are transferred to the Secretary all functions of the Director of ACTION under title I of the Volunteer Service Act of 1973, relating to the University Year for ACTION, the National Student Volunteer Program, and the Youth Challenge Program.

"TRANSFERS OF FUNCTIONS FROM THE APPALACHIAN REGIONAL COMMISSION

"Sec. 320. There are transferred to the Secretary all functions of the Chairman of the Appalachian Regional Commission and the Secretary of Health, Education, and Welfare under section 202 of the Appalachian Regional Development Act of 1965 which relate to grants for the planning and operation of child development programs.

"TRANSFERS OF FUNCTIONS FROM THE LIBRARY OF CONGRESS

"Sec. 321. There are transferred to the Secretary all functions of the Librarian of Congress—

"(1) under the Act of March 3, 1931 (46 Stat. 1487), relating to the provision of books, recordings, and other materials for the blind and physically handicapped;

"(2) under the Act of June 28, 1902 (32 Stat. 480), relating to distribution of data concerning Library of Congress cataloging;

"(3) relating to the program commonly known as the Library of Congress photoduplication service:

"(4) with respect to the provision of information to the Congress, the executive and judicial branches of the Government, and the research community concerning the collections of the Library of Congress;

"(H) the Smithsonian Institution Traveling Exhibition Service;

"(I) the program commonly known as the Smithsonian Special Foreign Currency Grants for Museum Programs, Scientific and Cultural Research and Related Educational Activities; and

"(J) the Canal Zone Biological Area and the Smithsonian Tropical Research Institute.

"(2) The transfer of functions under paragraph (1)(J) is subject to the provisions of Annex A to the Agreement in Implementation of Article III of the Panama Canal Treaty.

"(b) There are transferred to the Secretary all functions of the Board of Trustees of the Woodrow Wilson International Center for Scholars under the Woodrow Wilson Memorial Act of 1968.

"TRANSFERS OF FUNCTIONS FROM THE NATIONAL GALLERY OF ART

"Sec. 324. There are transferred to the Secretary all functions of the trustees of the National Gallery of Art relating to the National Gallery of Art Extension Service.

"TRANSFER OF THE PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

"Sec. 326. (a) The President's Council on Physical Fitness and Sports established pursuant to Executive Order 11562, issued September 25, 1970, is transferred to the Department.

"(b) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function, office, agency, or bureau transferred under this section are transferred to the Department.".

On page 109, line 3, strike out "Sec. 307." and insert "Sec. 326.".

On page 109, between lines 8 and 9, insert the following:

ties for the conduct of research and development.

"(b) Within sixty days after the date of enactment of this Act, the Director of the Office of Management and Budget shall determine which functions and programs shall be transferred to the Secretary pursuant to this section.".

On page 109, line 10, strike out "Sec. 308." and insert "Sec. 328.".

On page 109, between lines 13 and 14, insert the following:

"TRANSFER OF FUNCTIONS RELATING TO CHILD'S INSURANCE BENEFITS

"Sec. 329. Within sixty days after the date of enactment of this Act, the President shall submit a reorganization plan to the Congress in accordance with the provisions of chapter 9 of title 5, United States Code, which transfers to the Secretary all functions of the Secretary of Health, Education, and Welfare which relate to the provision of child's insurance benefits under section 202(d) of the Social Security Act which are payable on account of a child being a full-time student.".

On page 73, in the table of contents, strike out the item relating to section 303 and insert the following:

"Sec. 303. Transfer of the National Science Foundation.".

On page 73, in the table of contents, strike out the items relating to sections 307 and 308 and immediately after the item relating to section 306, insert the following:

"Sec. 307. Transfers of functions from the Department of Agriculture.

"Sec. 308. Transfers of functions from the Department of Commerce.

"Sec. 309. Transfers of functions from the Department of Energy.

"Sec. 310. Transfers of functions from the Department of the Interior.

"Sec. 311. Transfers of functions from the Department of State.

"Sec. 312. Transfers of functions from the Department of Transportation.
"Sec. 313. Transfers of functions from the Community Services Administration.
"Sec. 314. Transfers from the General Services Administration.
"Sec. 315. Transfers of functions from the National Aeronautics and Space Administration.
"Sec. 316. Transfers of functions from the Veterans' Administration.
"Sec. 317. Transfers of functions from the Environmental Protection Agency.
"Sec. 318. Transfers of functions from the National Foundation on the Arts and the Humanities.
"Sec. 319. Transfers of functions from ACTION.
"Sec. 320. Transfers of functions from the Appalachian Regional Commission.
"Sec. 321. Transfers of functions from the Library of Congress.
"Sec. 322. Transfers of functions from the Government Printing Office.
"Sec. 323. Transfers of functions from the Smithsonian Institution.
"Sec. 324. Transfers of functions from the National Gallery of Art.
"Sec. 325. Transfer of the President's Council on Physical Fitness and Sports.
"Sec. 326. Transfer of the Advisory Council on Education Statistics.
"Sec. 327. Transfers of functions relating to the funding of research and development for colleges and universities.
"Sec. 328. Effect of transfers.
"Sec. 329. Transfers of functions relating to child's insurance benefits.".

do this? Alternately, if there is a change in policy, why conceal it?

I have to say, much to my regret, that I believe there is a change in policy involved. That is, a decision has been made, for rather narrow political purposes, to recognize an educational interest narrowly defined; defined in terms of specific institutions, which, in recent years, have become ever more political and which are now, of course, very much involved in national politics.

Mr. President, I have to say that it comes as something of a disappointment to me, although perhaps it should not come as a surprise, that everything we said would not happen to Federal aid to education when we were battling for it in the latter days of the Eisenhower administration and throughout the Kennedy administration, everything we said would not happen is happening here today.

The opponents of Federal aid to education said, if you bring it to Washington, it will become politicized. We said:

> Nonsense, we are not that kind of people. This is not that kind of government.

But politicized it has become. And is becoming.

University officials have come to my office, persons for whom I have the utmost respect, and described meetings held in the White House and meetings with White House officials in which they were told that the administration expected them to support this bill for reasons which I can only describe as corrupt opportunity grants and matters of that kind.

The U.S. National Government is not a very important actor in elementary and secondary education in that it provides only a small fraction of school operating expenses. But in the field of research, in college and university education, postgraduate education, and postdoctoral education, it is absolutely essential. It is the principal source of basic research funds in this country. And here, in Washington, particularly in the science area, with the good judgment that we have had in these things, we have reproduced, as much as has been possible, those institutions which are so characteristic of American Government and have been for a century and a half, which insulate education from politics.

I ask, Mr. President, that we consider how extraordinary are these arrangements. They do not exist in any other country that I know, except Canada. In the United States, at just about every level of government, we find not one government but two. One government is the political government, and the other government is the education government. They are elected alike, they have powers to tax alike. The education budget in a village in New York will frequently be twice the budget of the village itself. But parties stay out, politics stays out. We have kept them apart.

When the Federal Government began its deep involvement in research, which was only in the last generation, stimu-

The ACTING PRESIDENT pro tempore. Is this the amendment on which the Senator desires 4 hours?

Mr. MOYNIHAN. I believe that is the case, Mr. President, that we have secured 4 hours, evenly divided.

For my part, Mr. President, I would not expect to use that much time.

Why do we not leave it be until the matter comes to its natural conclusion?

Mr. President, the purpose of this amendment is to describe what the Department of Education, if established in this Congress, will look like five Congresses from now, or 10, in the normal sequence of the workings of Government and bureaucracy in the Capital of the Nation.

I have an ambivalence about this matter which I know my good friend, the distinguished chairman of the Governmental Affairs Committee, will recognize. I do not think a Department of Education to be a sound proposal at this time. But if there is to be such a department, it seems to me it is altogether desirable that it be a large department, a complex one, and one incorporating so many interests as not easily to be dominated by any one of them.

So I propose an amendment to make less bad a proposal which I otherwise in fact very much oppose.

I should like to describe the amendment. It has been said by a number of persons speaking for the administration that the proposal to create an education department does not imply any change in educational policy by the U.S. Government. One could properly ask, if there is no change in policy involved, then why

rupting, reasons which have appalled an educator of a previous generation, which would have been devastating to our purposes in the late 1950's and 1960's, when we proposed the early measures that led first to the National Defense Education Act of 1958 and then to the Elementary and Secondary Education Act of 1965.

The point is this: The U.S. Government is involved in a very wide range of educational activities. They go back to the beginnings of the Republic. The Northwest Ordinance is almost the first education statute in American history.

Every educated person, everyone who has gone through an American school system, knows that the ordinance of 1787 set aside 2 million acres of the Northwest Territory for the support of education. This was done in 1787, under the Continental Congress, even before this Constitution was in effect.

We then commenced a long series of enactments, large and small. Wartime has always given great impetus to these things. The Office of Education that now exists in the Department of HEW, which is now to be turned into a department of itself, was created in the Civil War. The apprenticeship programs came with World War I; the veterans programs came with World War II. Research fellowships came with the Korean war. Higher education assistance came with the cold war, you might say, culminating in the NDEA, after the successful launching of Sputnik by the Soviets. And, not to carry a metaphor too far, the war on poverty brought us programs such as the Elementary and Secondary Education Act and the basic educational

lated by World War II, the National Institutes of Health and other places began this insulating technique. Grants are given by our agencies on the recommendation of panels drawn from the professions—peer review, it is called. A whole network of advisory committees keeps this out of the political calculations of government—or has until this bill came out.

I should like to read a statement which was given us by David Riesman, of Harvard University, who is surely the most sensitive and thoughtful observer of American education in our time, and who very much opposes this legislation. When David Riesman speaks with vigor and force on a subject, he is entitled to our attention. I shall read his statement:

> Education, contrary to people who speak of it as an "establishment", is a weak power, subject to whims and fashions in the country at large, and these show up in the attitudes of individual members of Congress and their aides, assistants and others. Therefore education is best served by being part of a much more powerful coalition in which it is joined with the rest of H.E.W. with its labor union and medical and other affiliations.
>
> Furthermore, education is, because of its weakness, vulnerable to attack because something done in one of the three thousand accredited postsecondary institutions by somebody may offend somebody or get in the papers. It therefore needs to have many diverse sources of support, combined with a certain precious obscurity.

(Mr. HUDDLESTON assumed the Chair.)

Mr. MOYNIHAN. I offer that phrase, "combined with a certain precious obscurity."

> Once it is separate, its target quality and actual weakness will be visible and this is a weakness not only vis-a-vis potential critics but potential lobbyists—captors—in the country. Education is best served by decentralization, not only in this huge and diverse country but also within the federal government and its manv agencies.

It is to this point, Mr. President, that I offer a complicated thought. The amendment I have at the desk would bring into the Department of Education, which under the bill before us will be a department of public elementary and secondary education, narrowly defined, a range of some eighty educational activities which are now deployed in precious obscurity in the Departments of Agriculture, Commerce, Interior, Justice, Labor, State, Transportation, Energy, HEW itself, of course, and in the Appalachian Regional Commission, the General Services Administration, the Library of Congress, NASA, the National Science Foundation, the Foundation for the Arts and Humanities, the Smithsonian, the Veterans' Administration, EPA, ACTION, and a whole range of other agencies and units.

If you would know why we chose this list—and I will not keep the Senate all day to read it—we took this list from the catalog of Federal education assistance programs. These are the activities the U.S. Commissioner of Education describes as having to do with education and we say:

> Let's put them all in the Department of Education.

fundamental importance to higher education. They see a future department looking very much like the department I propose.

If I may read some of these names; they are here in alphabetical order signed to this statement:

> We have considered carefully the arguments advanced in support of the creation of a separate federal Department of Education and do not find them sufficiently persuasive to overcome our reservations. Therefore, we are opposed to the legislation which would create the Department.
>
> Derek C. Bok, President, Harvard University, Cambridge, Mass.
>
> William B. Boyd, President, University of Oregon, Eugene, Oreg.
>
> Randolph Bromery, Chancellor, University of Massachusetts at Amherst, Amherst Mass.
>
> John H. Chandler, President, Scripps College, Clairemont, Calif.
>
> John W. Chandler, President, Williams College, Williamstown, Mass.
>
> Martha E. Church, President, Hood College, Frederick, Md.
>
> Jill K. Conway, President, Smith College, Northampton, Mass.
>
> John E. Corbally, President, University of Illinois, Urbana, Ill.
>
> Emil Danenberg, President, Oberlin College, Oberlin, Ohio.
>
> William H. Danforth, Chancellor, Washington University, St. Louis, Mo.
>
> Father Edward J. Drummond, S.J., President, Saint Louis University, St. Louis, Missouri.
>
> Alice F. Emerson, President, Wheaton College, Norton, Mass.
>
> James F. Gollattscheck, President, Valencia Community College, Orlando, Fla.
>
> Richard Rosser, President, DePauw University, Greencastle, Ind.
>
> Lewis Salter, President, Wabash College, Crawfordsville, Ind.
>
> David S. Saxon, President, University of California Systemwide Administration, Berkeley, Calif.
>
> Thaddeus Seymour, President, Rollins College, Winter Park, Fla.
>
> Adele Simmons, President, Hampshire College, Amherst, Mass.
>
> Allan F. Smith, President, University of Michigan, Ann Arbor, Mich.
>
> Robert L. Sproull, President, University of Rochester, Rochester, N.Y.
>
> Howard R. Swearer, President, Brown University, Providence, R.I.
>
> David E. Sweet, President, Rhode Island College, Providence, R.I.
>
> Louis A. Toepfer, President, Case Western Reserve University, Cleveland, Ohio.
>
> Gorden Van Wylen, President, Hope College, Holland, Mich.
>
> Franklin Wallin, President, Earlham College, Richmond, Ind.
>
> John William Ward, President, Amherst College, Amherst, Mass.
>
> Edward W. Weidner, Chancellor, University of Wisconsin—Green Bay, Green Bay, Wis.
>
> Thomas Wenzlau, President, Ohio Wesleyan University, Delaware, Ohio.
>
> Charles E. Young, Chancellor, University of California—Los Angeles, Los Angeles, Calif.

I will also read a statement which Richard Lyman, the president of Stanford, sent me in a telegram. He says:

> I hope that the Senate can be persuaded that the establishment of a Department of Education is contrary to the best interest of American colleges and universities.
>
> For two hundred years, virtually alone amoung the nations of the world, the United

Of course, this is going to produce horror. There are not five of these activities which do not have strong constituencies which would be appalled to be put into the Department of Education. So the administration has said that this will not happen.

As we know, earlier there were efforts to transfer things like Head Start. The one unique education activity of the Federal Government is Head Start. It came out of the poverty program and the Office of Economic Opportunity. It only exists as a Federal initiative. That will not go in. Why? Because the people care a great deal about it, care about that coalition as David Riesman mentioned.

So that was left out. But that is the least of the things left out. As I say, they go on page after page.

What will happen when we pass this bill? The institution most likely to be affected is higher education. Recently, leaders of higher education have begun to respond in ways that offer a rather welcome contrast to a long period of passivity in these matters, in which higher education would be given tasks by the Federal Government, be hired out to do them. Only in the years that followed would the dislocations and distortions that were brought about in consequence be recognized, only years after this or that event would they look up and say, "What did you do to us?"

What claim they make on the Senate, I do not see. Some of the most distinguished educators of this time have asked, seriously, that the Congress not pass this legislation because of what it will mean ultimately to the programs of

Robert Good, President, Denison University, Granville, Ohio.

Nelson P. Guild, President, Frostburg State College, Frostburg, Md.

Sheldon Hackney, President, Tulane University, New Orleans, La.

Arthur G. Hansen, President, Purdue University, West Lafayette, Ind.

Father Timothy Healy, S.J., President, Georgetown University, Washington, D.C.

Alexander Heard, Chancellor, Vanderbilt University, Nashville, Tenn.

Frank L. Hereford, President, University of Virginia, Charlottesville, Va.

John R. Hogness, President, University of Washington, Seattle, Wash.

John R. Hubbard, President, University of Southern California, Los Angeles, Calif.

Philip Jordan, Jr., President, Kenyon College, Gambier, Ohio.

Elizabeth Kennan, President, Mount Holyoke, South Hadley, Mass.

Sister Jeanne Knoerle, President, Saint Mary-of-the-Woods College, Terre Haute, Ind.

Theodore Lockwood, President, Trinity College, Hartford, Conn.

Bernard Lomas, President, Albion College, Albion, Mich.

Richard W. Lyman, President, Stanford University, Stanford, Calif.

William J. McGill, President, Columbia University, New York, N.Y.

Charles S. MacKenzie, President, Grove City College, Grove City, Pa.

C. Peter Magrath, President, University of Minnesota, Minneapolis, Minn.

Robert Q. Marston, President, University of Florida, Gainesville, Fla.

Dallin Oaks, President, Brigham Young University, Provo, Utah.

James C. Olson, President, University of Missouri, Columbia, Mo.

Rev. John P. Raynor, S.J., President, Marquette University, Milwaukee, Wis.

Ronald W. Roskens, President, University of Nebraska, Lincoln, Nebr.

States has avoided central direction of higher education. During that time we have nurtured the growth of a collection of institutions of higher learning that is, in its quality, range, and diversity, the envy of the rest of the world. To establish a national department of education now would be to turn away from a history of success for no compelling reasons whatsoever.

There are good reasons to reorganize and improve the status of education within HEW, and I would support such an effort. But the establishment of a department, no matter how narrowly defined at the start, will inevitably create pressures to add to it education-related programs now capably administered in other agencies. The arguments in support of those increments will be identical to the arguments now put forward for department, and the existence of a department will make them even harder to resist. The time to resist is now, at the very beginning. You have my support in that effort.

Mr. President, I am not going to prolong my discussion. I simply want to make the point that if my amendment fails, it will not matter one bit.

Because once the Department of Education is established, every function I list can be transferred to the Department either by Executive order or under the reorganization powers of the President. And one by one, they will be. Do Senators know why? Because the President will find that he has created a monster in this thing, that he has created the only single-interest Department in the U.S. Government.

In the Department of Labor, in the old days, you had the building trades and the industrial unions which could be depended upon to have some conflicting views and involve management. Also, a major activity was the employment service, and before that, the Bureau of Labor Statistics, with wide contact in the business world.

This single-interest Department will drive the President crazy. In the Office of Management and Budget, they will keep a tab as to how much per minute it costs for the President to see the Secretary of Education. They will say, "If that man gets in for 10 minutes, it will cost $100 million. Don't let him get in."

The President will say, "Don't let me see that particular man or woman. They want to talk about the promise I made in the campaign, and I don't want to keep that promise." To avoid that, they are going to transfer these additional activities.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks a "Dear Colleague" letter in which I summarize and quote an analysis by the Congressional Research Service about the power of the President to transfer education functions, given the existence of a Department of Education.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, I will simply read two paragraphs from the Congressional Research Service memorandum:

> (T)he President has statutory authority to transfer educational functions to a new Department of Education under two statutory provisions. All functions vested in the President, and functions vested in certain other offices but which require Presidential approval … RIBICOFF started talking about—a proposal born of his concern for more effective leadership in education by this Government. This proposal is a backroom deal, born out of a squalid politics. Everything we had thought we would not see happening to education is happening here. Must it? I hope not.

If you do not like what you see, you will like much less what you are going to get inexorably over time; because—I admit this is a complicated argument, but there is no reason we cannot absorb it—when the President finds what he has done—if not this President, another—he will find that the only way he can make this Department less bad is to do exactly the things he has promised not to do in this particular bill in order to win the acquiescence of other education interests and political forces outside the narrow spectrum here involved.

Higher education comes of age today, in my view, to those who stand up and see the future and ask that we do not plunge them into it.

Mr. President, I see in the Chamber my colleague and friend, the distinguished junior Senator from California, the most distinguished American semanticist of his age, an educator of renown and creativity, a writer of seminal and international reputation. He is standing, and I assume that he would like to speak. I yield the Senator as much time as he may require, given the hour and a half remaining to us.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., April 9, 1979.

Any Secretary of Education worth his salt will demand jurisdiction over the kinds of education-related programs specified in my amendment. It will be a bureaucratic imperative, the more so because of the limited scope and restricted jurisdiction of the Department of Education as set forth in S. 210. Similarly, Presidents will be extremely uncomfortable with the lopsided pressures that will come to bear on them from a narrowly-focused Department of Education. They, too, will want to broaden it.

Inexorably, the Department will extend its reach, and in twenty years—possibly in twenty months—it will come to resemble the "complete" Education Department sketched in my amendment. The Congress may offer some resistance, but it is manifestly difficult to pass a resolution of disapproval of a reorganization plan, and this ought not be expected.

We therefore face a dilemma. A narrowly-based Department of Education, as is now proposed, contains a clear and present danger of politicizing the federal education enterprise. The broader Department that will inevitably follow, while the logical outcome of establishing education as an explicit organizing principle for the federal government, will cause widespread disruption of every agency and posses a grave risk of heightened control over education.

My amendment illustrates the end of this path. The important question is whether we wish to start down it.

Sincerely,

DANIEL PATRICK MOYNIHAN.

[From the New York Times, Apr. 9, 1979]

KEEP THE E IN H.E.W.

The Senate has revised the bill to establish a cabinet-level Department of Education which the House leadership last year tried wisely but unsuccessfully to bury. The

> proval, may be delegated and re-delegated by the President. These functions may therefore be transferred to a new Secretary of Education through an Executive Order.

The President just signs the order.

> Functions not vested in the President but instead in other agencies or departments, may be transferred to a new Department of Education through a Reorganization Plan, subject to disapproval by the Congress.

To be sure, Congress may disapprove a reorganization plan, but this requires positive action to keep something from happening that otherwise will take effect automatically.

All the concerns of these educators will come to pass.

I see the distinguished majority whip in the Chamber, and I know that he will be most interested to learn how much Richard Lyman, the president of Stanford University, hopes we do not pass this bill.

Mr. President, I will sum up with two points:

This is a bad proposal, not because its original purposes were bad. Anything said or espoused by the Senator from Connecticut, one of the great Secretaries of HEW of our time, commands the presumption of informed and responsible Government behavior. There is no man in this body for whom I have greater respect in these matters, and he knows that. This stems from the time I was a young Assistant Secretary of Labor, working with the Department he led so ably under President Kennedy.

However, the proposal we have here is not the proposal that Senator ABRAHAM

DEAR COLLEAGUE: When the Senate resumes consideration of the Department of Education bill after the recess, I will call up an amendment (No. 132) that would add to the proposed Department most of the education-related activities, programs and agencies of the federal government that are not included in S. 210 as reported. I enclose an excerpt from the CONGRESSIONAL RECORD containing the text of my amendment and an explanation of it.

I do not expect the Senate to agree to this amendment. My purpose in offering it is to focus our attention on the eventual contours of a Department of Education regardless of what we may think we are putting in or keeping out.

The essential point is that once such a Department is created, the President can transfer programs, functions and units into it by executive order and by reorganization plan. The operative laws and procedures are set forth in the enclosed memorandum, prepared at my request by the American Law Division of the Congressional Research Service. It concludes that

> (T)he President has statutory authority to transfer educational functions to a new Department of Education under two statutory provisions. All functions vested in the President, and functions vested in certain other offices but which require Presidential approval, may be delegated and re-delegated by the President. These functions may therefore be transferred to a new Secretary of Education through an Executive Order.
>
> Functions not vested in the President but instead in other agencies or departments, may be transferred to a new Department of Education through a Reorganization Plan, subject to disapproval by the Congress.
>
> To be sure, Congress may disapprove a reorganization plan. But this requires positive action to keep something from happening that will otherwise take effect automatically.

pressure to establish such a department comes mainly from the National Education Association. As the teachers' largest trade organization, the N.E.A. has an understandable interest in being represented within the Cabinet. But that is exactly why a department with such a special base is unwise. It threatens to distort the broad and complex interests that more truly comprise education.

Senator Moynihan, with undoubted devilish intent, has let it be known that he plans to turn the proposal for a mere Department into a scheme for a Super E, which would gather unto its fiefdom all education-related activities now lodged wherever there seems to be a natural kinship with a program's mission. Thus, international academic exchanges are handled by the State Department; school food programs are in Agriculture; and the Smithsonian Institution enjoys independence. To suggest disturbing these sensible arrangements is to suggest why an education department is unwise.

A bid proposal may be made even worse by the mischievous amendment to restore the "right of voluntary prayer" in the public schools which the Senate approved by a vote of 47 to 37. Senator Jesse Helms, the rider's sponsor, thinks that the Supreme Court, which has ruled such prayer unconstitutional, has a "myopic and narrow view of the Constitution." We were not aware that acceptance of the Supreme Court as the interpreter of the Constitution is optional—even for the Senate.

The supporters of a separate department speak vaguely of the need for a Federal policy on education. We believe that they misunderstand the nature of American education, which is characterized by diversity. The legitimate centers of gravity are, and ought to remain, in the educational authorities of the states and the local communities for the public schools, and in the independent governing boards of the colleges and the universities. There is a need for Federal policies to deal with a multitude of educational problems, but that is not the same as a Federal policy emanating from a central department.

[From the Wall Street Journal, Apr. 4, 1979]

BLACKBOARD JUNGLE

If all goes according to plan, the Senate will vote this week on establishing a new Cabinet level Department of Education. The idea for such a department is the brainchild of the National Education Association. Candidate Jimmy Carter vowed during the campaign of 1976 to give the NEA its sandbox. The union then endorsed him for President. The administration is now pushing hard for the proposal, in spite of the fact that no one can point to any substantive good that it is likely to do, and that our most recent major reorganization of this type produced the spectacular Department of Energy.

The new Education Department will be the product of old-style pork barrel politics plus the new style tendency of legislators to try to create an impression of government in perpetual and vigorous motion. It is a bad idea, and Congressmen who are afraid to say so should at least be held to some account for it.

[From the Washington Post, Apr. 5, 1979]

A FULLY ROUNDED EDUCATION

The unfortunate and misguided bill to establish a federal Department of Education is to come to the Senate floor today. Like much unfortunate and misguided legislation, it is likely to be passed. But before that happens—and the voting is some time off—Sen. Daniel Patrick Moynihan (D-N.Y.) intends to propose an amendment to make the new department significantly more multifaceted, more interdisciplinary, and in every respect more complete.

nice if the Senate were to act on all these pieties when the vote is finally taken. If it doesn't, it would serve them right to end up with the Moynihan monstrosity added to what is already a pretty monstrous bill.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., April 4, 1979.

To Hon. DANIEL P. MOYNIHAN.
From American Law Division.
Subject: Use of Reorganization Plan To Transfer Functions to a New Department of Education.

This memorandum is in response to your inquiry concerning the use of a reorganization plan to transfer functions to a new statutorily created Department of Education. In particular, you asked whether or not the President has the authority to transfer all educational functions presently vested in other agencies and departments to a new Department of Education, which are not transferred to that Department through the Department's organic act.

The authority of the President to transfer functions from one Executive agency or Department to another stems from two statutory sources. Section 301 of Title 3, United States Code, is a general grant of authority to the President to delegate to the heads of Departments and agencies any function which is vested in the President by law, or any function that is vested in any official who is appointed with the advice and consent of the Senate, but required by law to be performed only with the approval of the President. Delegations of authority under this provision may be revoked at any time by the President, and re-delegated to other appropriate officials. Under this authority, transfers of functions are usually accomplished by Executive Order, and not through a re-tive Agency" is defined at 5 U.S.C. § 105 to mean "an Executive Department, a Government corporation, and an independent establishment," it is clear that the reorganization plans may be used to transfer functions from and to Executive Departments, including a new, statutorily created Department of Education. However, the Reorganization Act also imposes certain limitations on the scope of reorganization plans.

Under the Reorganization Act, reorganization plans must be consistent with one or more of the purposes of the Reorganization Act set out in Section 901 of Title 5. Included among these purposes is "to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes." Obviously, a reorganization plan which transfers educational functions to a new Department of Education may be justified as an attempt to effectuate this statutory purpose.

Another restriction on reorganization plans is that "no enforcement function or statutory program may be abolished by the plan." The legislative history of the Reorganization Act indicates that this provision is intended to prohibit the abolition of substantive programs, but does not indicate that these programs may not be transferred by a reorganization plan. As explained in the Senate report associated with the Act:[1]

> Provisions describing the permissible subject matter of [reorganization] plans have been amended to make clear that a plan may abolish advisory functions, but that a plan may not abolish substantive programs mandated by statutes.
>
> Without this amendment, the act would have the effect of authorizing plans which abolish any service the government provides the public pursuant to statute, from grants, loans, and other assistance programs to investigations and enforcement programs pro-

As he looked over the present bill, the senator perceived that it would leave a great many of the present federal education programs out of the new department. The senator's amendment would put them all in. The bill, for example, would leave the school breakfast program in the Agriculture Department, and Indian schools in Interior. The Moynihan amendment would put them in the future Education Department. It would take the international educational exchanges away from the State Department, aviation education away from the Transportation Department, and everything from Head Start to health manpower training out of HEW. The senator would similarly give the Education Department the Smithsonian's Wilson Center for Scholars, the EPA's training grants and Action's Youth Challenge. His position is that, if we're to have an Education Department, we might as well put all of the federal education functions into it

The senator, as you may have gathered, is no friend of this bill. The bill's authors drafted it, with great skill and tact, to exclude all of the programs that are defended by bureaucratic and political interests too strong to challenge safely. The future department is mainly supported by one very large organization, the National Education Association, which can reasonably expect to command much influence in its conduct. All those who disagree with the NEA on policy, or fear being overrun by it, are naturally anxious to keep their programs out of its new department.

It is also true that to create a federal Department of Education would imply an intention to expand federal jurisdiction over the schools. Education has always been primarily a responsibility of the states, a wholesome tradition that deserves to be continued and one, incidentally, that is much honored in debates on the Senate floor. It would be

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organization plan. No Congressional approval of such transfers is required. Therefore, based on this provision, it would appear that all educational functions which are vested in the President by law, and all educational functions vested in an official whose appointment requires Senate ratification, but be transferred by the President to the Secretary of a new Department of Education by an Executive Order or other Presidential directive.

The second statutory authority for Presidential transfers of functions among Executive Departments and agencies is the Reorganization Act of 1977, 5 U.S.C. §§ 901–912. Under this Act the President may submit a reorganization plan to the Congress which will then become effective after 60 calendar days of continuous session of the Congress, unless either House disapproves the plan within that time period.

The Reorganization Act gives the President the authority to propose plans calling for the broad restructuring of the Executive Branch. Section 903 of Title 5 provides that reorganization plans may provide for the transfer of the whole or a part of any agency, or of the whole or a part of the functions of an agency, to the jurisdiction and control of another agency; for the abolition of all or a part of the functions of an agency; for the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions of an agency, with the whole or part of another agency or the functions thereof; the consolidation or coordination of a part of an agency with another part of the same agency; the authorization of an officer to delegate any of his functions; or the abolition of the whole or a part of an agency which does not have, or on the taking effect of a reorganization plan will not have, any functions. Since the term "agency" is defined by the Reorganization Act to mean "an Executive agency or part thereof," and since the term "Execu-

tecting the constitutional rights of individual citizens, or their health and safety. *Authorizing the use of reorganization plans to abolish these programs mandated by statute would be inconsistent with the intent of the act to give the President the ability to reorganize the means by which the executive branch administers the law*, not the substantive content of the programs it administers. (emphasis added)

Therefore, it appears that the bar against abolishing statutory programs is not intended to prohibit the transferring of such programs from one agency or Department to another, including a statutorily created Department of Education, but only to prevent their abolition.

The contents of reorganization plans are also limited by the provisions of Section 905 of Title 5. Although this section contains a list of six specific types of reorganizations which are prohibited, only the first groups of limitations appears relevant to your inquiry. These provisions state that a reorganization plan may not provide for or have the effect of "creating a new executive department, abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof."

Since the new Department of Education would be created by statute, the prohibition against creating a new Executive Department would not be applicable to a transfer of functions to the new Department. The remainder of this provision would prohibit the reorganization plan from transferring an entire Executive Department, or all the functions thereof, to the new Department of Education, or from transferring an independent regulatory agency or all the functions there-

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[1] S. Rep. No. 95–32, 95th Cong., 1st Sess 8 (1977).

of, to the new Department, but would not limit a reorganization plan's effective transfer of part of an Executive Department or independent regulatory agency. Further, a reorganization plan could still transfer an entire agency, or the functions of an entire agency, provided the agency is not an Executive Department or independent regulatory agency. This conclusion is borne out by Section 903(a)(6) of the Act, which specifically provides that a reorganization plan may provide for the "abolition of the whole or a part of an agency which . . . does not have, or on the taking effect of the reorganization plan will not have, any functions," and by Section 904 which states that a reorganization plan "shall provide for terminating the affairs of an agency abolished."

Section 101 of Title 5 states that the Executive Departments are: the Departments of State; Treasury; Defense; Justice; Interior; Agriculture; Commerce; Labor; Health, Education and Welfare; Housing and Urban Development; Transportation; and Energy. An entire transfer of any of these Departments would therefore be prohibited, although transfers of less than an entire Department would be allowed under the Reorganization Act.

Although the term "independent regulatory agency" is not well defined, the term usually denotes an agency which is independent of the Executive and Legislative Branches of government and which has regulatory responsibilities.[3] Again, transfers of an entire independent regulatory agency, or all the functions thereof, would appear to be barred by the Reorganization Act, but the transfer of some of the functions of such an agency would probably be permitted under the Act.

In conclusion, the President has statutory authority to transfer educational functions to

Mr. HAYAKAWA. I thank the distinguished Senator from New York.

Mr. President, several weeks ago, I inserted in the RECORD a New York Times article that talked about the amendment proposed by my distinguished colleague from New York, Senator MOYNIHAN. Now, today, we actually are discussing it.

I congratulate Senator MOYNIHAN on his efforts to show the proposed legislation for what it really is. I do not like the idea of a separate Department of Education, and I will not support its passage. However, I fully support Senator MOYNIHAN's idea that if we are going to have a separate Department of Education, let us make it a super department; let us put everything into it.

It seems to me that Senator MOYNIHAN is one of the few people who is no hypocrite regarding the proposed legislation. His amendment basically says that if we must have this ridiculous Department, then let us do it right—let us incorporate into this new area of bureaucracy absolutely everything that has anything to do with education. This super department then would embrace all education-related activities now housed wherever there is even a remote relation to education.

Senator MOYNIHAN has stated publicly that he does not expect this amendment to be adopted, because the supporters of the bill will never go along with it. He has talked about withdrawing this amendment. I hope he will not. I would thank my colleague from California for his thoughtful and intelligent remarks. We can make no claim on the Senate other than the individual vote we have as Members here. Yet I do say that if this bill passes higher education will regret it, and we will at least have the honor to say that there were those who said so and did not sit silently with the experience of the last quarter century—the Danforths, Lymans, and McGills of Columbia University—I particularly mention McGill—as this atrocious thing emerged. Remember if you like the Department of Energy then you will love the Department of Education.

It makes no difference that the President says, "I only have these narrow things." One by one, if our amendment fails, which looking about me I have the feeling it might, it will not matter, for one by one, by Executive order or under the reorganization powers, these matters will be transferred to this new Department.

Mr. President, we have made our case, perhaps not as persuasively as we had hoped, but I do not know that. If no other Senator wishes to speak I would be happy to yield back my remaining time, especially as I see that my dear friend for whom I have just the uttermost regard and affection in these matters, the chairman of the committee and the senior Senator from Connecticut, is on his feet.

Mr. RIBICOFF. Mr. President, far be it from me not to show due respect to the

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a new Department of Education under two statutory provisions. All functions vested in the President, and functions vested in certain other offices but which require Presidential approval, may be delegated and re-delegated by the President. These functions may therefore be transferred to a new Secretary of Education through an Executive Order.

Functions not vested in the President but instead in other agencies or departments, may be transferred to a new Department of Education through a Reorganization plan, subject to disapproval by the Congress. Such a plan may transfer, but may not abolish statutory programs, or have the effect of transferring an entire Executive Department or entire independent regulatory agency or all of the functions thereof. Despite this limitation, agencies which are less than an Executive Department or independent regulatory agency may be transferred to the new Department, and if all of the functions are transferred from these agencies, they may be abolished.

We hope that this information answers your questions in this area. If we may be of assistance in the future please feel free to contact our offices.

RAYMOND NATTER,
Legislative Attorney.

like to see a vote on it, in order to expose the ridiculousness at the heart of the idea.

If the object of this Department is not to house educational programs, what is it for? Why not lodge all education programs in one spot, as suggested by Senator MOYNIHAN? What possible objection could supporters of the bill have to that? After all, if they do want this separate Department so that we can pay better and closer attention to education, with this one amendment, our education programs would come from all over the place and be together, where we can examine them, where we can weed out the overlaps, where we can see the duplications, where we can see the shortcomings in the overall program. Let us put everything in. With this amendment, our education programs all would be in one place, would be in line with each other, and would be easier to deal with.

As this New York Times article stated:

> "The legitimate centers of gravity are, and ought to remain, in the educational authorities of the States and the local communities for the public schools, and in the independent governing boards of colleges and universities. There is a need for Federal policies to deal with a multitude of educational problems, but that is not the same as a Federal policy emanating from a central department.

I, therefore, applaud my friend, Senator MOYNIHAN, for getting to the root of the problem and exposing this proposed department for what it really is.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, I distinguished Senator from New York, especially having been joined by the distinguished Senator from California, not to at least respond briefly.

I would guess there is no Senator in this body whose votes do not track mine as closely as the Senator from New York. We have been collaborators a long time before the Kennedy administration when the distinguished Senator from New York was a most able assistant to Governor Harriman of New York, and I was the Governor of the State of Connecticut. And I express the respect that I have for the Senator from California, not because we vote alike—we do not—but for his intellectual integrity, his courage, and his many contributions to the basic culture and understanding of our Nation.

However, there is one thing I know, that is, my opponents on this issue are both realists and pragmatic men. That is why they not only have been successful in university life, but also successful in politics, and they make a great contribution to this body.

Because of my respect for them, instead of trying to rationalize, I'd rather speak very frankly. I know that after 40 years of politics, 50 percent of something is always better than 100 percent of nothing.

I also know that you can be so doctrinaire in your objectives that not only do you not achieve what you seek, but you lose everything that you are striving for. Sometimes it is better to get 50 percent and wait a few more years to try to accumulate the other 50 percent.

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[1] *Cf. K. Davis, Administrative Law Treaties* § 2:7 (2nd ed. 1978). Examples of agencies which are considered by the Office of Management and Budget to be independent regulatory agencies included: Civil Aeronautics Board, Commodity Futures Trading Commission, Consumer Product Safety Commission, Fedral Communications Commission, Federal Deposit Insurance Corporation, and the Interstate Commerce Commission. *Id.* A list of 18 agencies determined by the OMB to be independent regulatory agencies may be found at 43 Fed. Reg. 12670 (1978). Undoubtedly, other agencies not included in the OMB list may also be considered as such. *Id.*

Not that the suggestions of the Senator from New York are bad. Frankly, I would be very happy, personally, to see many of his proposed program transfers in the Department of Education. But were I to accept the amendment or were I to accept the major parts of it there is one thing I know. That is this bill would go down to abysmal defeat.

We had days and days of hearings, built a big record, had many, many conferences, and took 400 pages of testimony. We had to take on every bureaucracy. Everyone was defending his piece of turf. I personally would like to see the school lunch program, the child nutrition program in the Department. I would like to see Indian education as part of this bill. I would like to see veterans' education in this proposal. But it was very obvious as we proceeded, not only in committee but in the Chamber, that it was impossible.

So, I am very frank with my distinguished friends from New York and California—not to argue that their proposals are bad proposals, but to point out the practical political problems we face. The Department of Education is so important and what we have placed in the Department of Education is so meaningful that I would prefer to take that proverbial half loaf than to try for the entire loaf and receive nothing.

I think it should also be pointed out that every Member in this body who has been intimately connected with the oversight of Federal educational programs in New York stating that if he were elected he would seek a place on the Finance Committee, because he recognized the problems of his State were inextricably tied up with the jurisdiction of the Finance Committee. While it was urged upon him to seek other committees, because of his unusual background and experience, and he could have added great luster to those committees, yet as a Senator serving his own State and his country he saw what I saw when I came to the Senate—one of the great power bases in the Senate happens to be the Finance Committee. I would say the State of New York is much the better for the sophistication and knowledge of the Senator from New York by recognizing that he could do more for his State and country by going on the Finance Committee, and I urged him to seek that spot.

I urged upon the leadership of the Senate to grant him that spot because I knew his contributions were many.

My feeling is that we will not find ourselves divided on many issues, as we are on this one, because we usually march to the same drummer in tandem on issue after issue whether in the Committee on Finance, on this floor, or just a social evening together.

Mr. MOYNIHAN. The Senator wins the exchange.

Mr. RIBICOFF. I have no more requests for time, and I am willing to yield back the remainder of my time.

Mr. MOYNIHAN. Does the Senator

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, strike out lines 9 through 12.

On page 112, line 13, strike out "(e)" and insert "(d)".

On page 112, line 20, strike out "(f)" and insert "(e)".

On page 113, line 13, strike out "(g)" and insert "(f)".

The PRESIDING OFFICER. Without objection, the amendment will be considered en bloc.

Mr. BELLMON. Mr. President, as I understand it, S. 210 proposes to consolidate various existing education programs at the Federal level in a new Department partly for reasons of efficiency and effectiveness. Since the time when this legislation was first discussed, it has been my feeling that it would not truly represent an effective and efficient addition to the Federal bureaucracy unless it was able to demonstrate economies to justify its existence. In testimony before the Senate Government Affairs Committee on October 12, 1977, I said:

> There is one caution I wish to offer the Committee as it studies this proposal. The creation of a separate Department of Education must not become an opportunity for bureaucratic self-aggrandizement. There is no reason to expand the bureaucratic workforce in order to demonstrate administrative effectiveness and equal importance with other departments. We have sufficient resources at work in the education funtion at the Federal level; what we need to do is to consolidate,

the Senate in either the authorizing or the appropriations process is a cosponsor of this bill. Whether it be chairman of the Appropriations Committee, Senator MAGNUSON, or those on the Human Resources Committee, Senator WILLIAMS and Senator PELL, they are all cosponsors of this legislation.

From the day I came to the Senate they have continuously encouraged me to push ahead for a Department of Education. We did so year after year, although we had little support from the administrations or from the Secretaries of HEW, until President Carter's commitment to support us in establishing the Department of Education.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the Senator from New York.

Mr. MOYNIHAN. Does the Senator recall, by chance, the circumstances in which the present President made the commitment?

Mr. RIBICOFF. I guess it was made on the stump during the campaign, but that does not denigrate from the fact that he believed in it.

I believe personally that the Senator from New York and the Senator from California made many speeches during their campaigns for the Senate. I do not impute a cynicism to their making those appeals on the stump in their respective States. But I note that when they come to the Senate they have not repudiated them, but fought for them.

If I recall, I remember going to New York and listening to the Senator from Oklahoma wish to speak on this issue?

Mr. BELLMON. No, I do not.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. MOYNIHAN. I yield back my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. (Putting the question.)

The amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 98

(Purpose: To eliminate the authority for the employment of additional personnel at levels GS-16, GS-17, and GS-18 of the General Schedule)

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask that it be reported en bloc.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 98.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

> motivate and energize these resources to give the education mission greater impact. In the version of this bill which the Committee finally reports, I hope that restraints upon the growth of bureaucracy are clear.

The bill now before us, Mr. President, requires Congress to authorize the end strength of the Department in personnel at the end of each fiscal year, and there can be no appropriation for funds unless the end strength has been authorized. To start the Department off, however, section 403 (b) (1) states:

> For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (b) the number of personnel transferred, under authority of this act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed one per centum of the numbr authoriezd under the preceding sentence.

According to the Office of Management and Budget, Mr. President, the estimated present staffing of the programs to be transferred to the new Department totals 17,067, including those positions which may be considered excess to the needs of the new Department. In addition, S. 210

authorizes 13 new Executive level positions, 63 new supergrade positions and gives the Secretary authority to employ experts and consultants at the GS-18 daily rate. There will be an estimated 172 new positions already authorized or newly authorized in the bill. These positions include 44 permanent supergrades, 15 limited term supergrades, 13 officers, and 100 staff positions. The total of transferred and newly authorized positions therefore is 17,239. If the Secretary chooses to exercise the 1 /percent option previously described, he could add 172 additional new positions during the first year of the new Department, bringing the total to 17,411.

A letter from the Vice President in support of this bill and dated April 5 states that the "new Department would permit elimination of 350 to 450 positions." Conversations my staff has had with OMB indicate that this figure is an estimate, based upon attrition over the next 3 to 5 years. Nowhere in the bill is the administration bound to such action, however.

While we do not want to unnecessarily tie the hands of the Secretary during the initial year's operation, it does seem that this legislation provides much opportunity for the well-known "ratchet effect," which insures that programs and expenditures may move upward, but never remain constant or decrease. Out of 17,067 positions transferred, it seems reasonable to believe that normal processes of reassignment and reclassification plus attrition will provide the Secretary the criticism it has received. I hope we can avoid such pitfalls in the new Department of Education.

Mr. RIBICOFF. Mr. President, I want to commend the Senator from Oklahoma for bringing these amendments to the floor. We have studied them very carefully. The department should definitely be streamlined. Under no circumstances should we allow any excess positions to be created.

I believe the bill is a better bill because of the contribution of the Senator from Oklahoma and, as manager of the bill, I am pleased to accept the amendments of the Senator from Oklahoma.

Mr. DANFORTH. Mr. President, I think this is characteristic of the Senator from Oklahoma in his efforts to bring efficiency to Government and to prevent the needless proliferation of bureaucracy and the staffing of departments with unneeded personnel.

I compliment him on these amendments, and we on the minority side of the management of this bill are willing to accept the amendments.

Mr. BELLMON. Mr. President, I thank my friends, and I appreciate their position.

I am prepared to yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma. (Putting the question.)

The amendment is as follows:

establish a Department of Education, viz:

On page 81, between lines 4 and 5, insert the following: (F) an Assistant Secretary for Indian Education;

On page 81, line 5, strike out "(F)" and insert "(G)".

On page 81, line 6, strike out "(G)" and insert "(H)".

On page 81, line 7, strike out "(H)" and insert "(I)".

On page 81, line 8, strike out "(I)" and insert "(J)".

On page 81, line 24, strike out "(G)" and insert "(H)".

On page 81, line 25, strike out "section 203(11)" and insert "section 203(12)".

On page 81, between lines 22 and 23, insert the following:

(3) The Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, or Aleuts.

On page 84, immediately before line 1, insert the following:

(9) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals;

On page 84, line 1, strike out "(9)" and insert "(10)".

On page 84, line 4, strike out "(10)" and insert "(11)".

On page 84, line 5, strike out "(11)" and insert "(12)".

On page 84, line 10, strike out "(12)" and insert "(13)".

On page 84, line 13, strike out "(13)" and insert "(14)".

On page 84, line 17, strike out "(14)" and with ample staffing flexibility during the first year. In view of the already large staffing level created by 17,067 transferees, and 172 new positions, it seems to me that the public is entitled to some specific protection against the natural tendency of bureaucratic organizations to grow to fill the available authorizations.

To provide this needed protection, I am offering the following amendments:

An amendment to delete the authorization of the 63 new supergrade positions. The Office of Management and Budget indicates that the pool of already authorized supergrade positions is sufficient to meet the needs of the New Department, so that it is not necessary to increase the total authorized supergrade slots.

An amendment limiting the number of positions transferred to the new Department of 17,067—the number currently estimated by OMB for the functions and programs consolidated and limiting the number of new positions to 172, for a total of 17,239. We do not need to initiate the Department of Education by allowing it to become a dumping ground for unwanted personnel or a bureaucracy artificially inflated.

The purpose of these amendments I have just called up en bloc is to provide this needed attention. I hope the sponsors of the bill have had a chance to look at the amendments. I think they will find that they in no way tie the hands of the Secretary, but they rather do protect the public against a normal tendency for a new bureaucracy to grow beyond the bounds of reason. This is what happened with the Department of Energy, and is one of the reasons for

The amendment was agreed to en bloc.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I think the Senator from Virginia requested some time, and I am pleased to yield it to him.

I suggest the absence of a quorum until the Senator can be on the floor in about 30 seconds.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 99

(Purpose: To transfer Indian education programs from the Secretary of the Interior to the Secretary, to establish an Office of Indian Education in the Department, and for other purposes)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 99.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

insert "(15)".

On page 87, between lines 20 and 21, insert the following:

OFFICE OF INDIAN EDUCATION

SEC. 210. (a)(1) There is established in the Department an Office of Indian Education, to be administered by the Assistant Secretary for Indian Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Indian Education—

(A) all functions transferred from the Secretary of the Interior or the Department of the Interior under section 304 (other than administrative and support functions); and

(B) the functions relating to Indian education (other than administrative and support functions), transferred from the Education Division of the Department of Health, Education, and Welfare under sections 301(a)(1) and 301(b)(1), which were administered by the Deputy Commissioner for Indian Education of the Department of Health, Education, and Welfare on the day before the effective date of this Act.

(2) The Assistant Secretary for Indian Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

(c) In carrying out his responsibilities under this Act, the Assistant Secretary for Indian Education shall—

(1) consult regularly with the Assistant

Secretary for Indian Affairs of the Department of the Interior in order to assure the efficient operation of programs for Indian education and to coordinate the provision of support services by the Department of the Interior; and

(2) take such steps as may be appropriate to increase the level of local control of Indian education by Indians, Alaskan Natives, and Aleuts.

(d) Not later than three years after the effective date of this Act, and every three years thereafter, the Secretary, after consultation with the Assistant Secretary for Indian Education and with affected Indian tribes, Indian organizations, and other groups, shall transmit to the Congress a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts.

On page 87, line 22, strike out "Sec. 210." and insert "Sec. 211.".

On page 88, line 19, strike out "Sec. 211." and insert "Sec. 212.".

On page 89, line 2, strike out "Sec. 212." and insert "Sec. 13.".

On page 90, line 13, strike out "Sec. 213." and insert "Sec. 214.".

On page 95, line 22, strike out "Sec. 214." and insert "Sec. 215.".

On page 107, immediately after line 23, insert the following:

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF THE INTERIOR

Sec. 304. (a) There are transferred to the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories affected by subsection (a) of this section

On page 144, between lines 13 and 14, insert the following:

CONTRACTS WITH INDIAN TRIBAL ORGANIZATIONS

Sec. 512. (a) The Indian Self-Determination and Educational Assistance Act is amended by inserting after section 102 the following new section:

"CONTRACTS BY THE SECRETARY OF EDUCATION

"Sec. 102A. (a)(1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

"(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory;

"(B) adequate protection of trust resources will not be assured by such contract; or

"(C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

"(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary education facilities or services, including the training of personnel for such development, construction, operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

"(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.".

(d)(1) Section 106(a) of such Act is amended by striking out "102" and inserting "102, 102A,".

(2) Section 106(b) of such Act is amended by inserting "102A," immediately after "102,".

(3) Section 106(c) of such Act is amended by striking out "102" and inserting "102, 102A,".

(4) Section 106(d) of such Act is amended by inserting "102A," immediately after "102,".

(5) Section 106(e) of such Act is amended by inserting "102A," immediately after "102,".

(6) Section 106(f) of such Act is amended by striking out "102" and inserting "102, 102A,".

(7) Section 106(g) of such Act is amended by—

(A) inserting "102A," immediately after "102,"; and

(B) striking out "Interior and Health, Education, and Welfare" and inserting "Interior, Health and Human Services, and Education".

(8) Section 106(h) is amended by striking out "102" and inserting "102, 102A,".

(e)(1) Section 107(a) of such Act is amended by striking out "Interior and of Health, Education, and Welfare" and inserting "Interior, of Health and Human Services, and of Education".

(2) Section 107(c) of such Act is amended by striking out "Interior and the Secretary of Health, Education, and Welfare" and in-

shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.

On page 108, line 3, strike out "Sec. 304." and insert "Sec. 305.".

On page 108, line 12, strike out "Sec. 305." and insert "Sec. 306.".

On page 108, line 18, strike out "Sec. 306." and insert "Sec. 307.".

On page 109, line 3, strike out "Sec. 307." and insert "Sec. 308.".

On page 109, line 10, strike out "Sec. 308." and insert "Sec. 309.".

On page 110, line 20, strike out "section 210" and insert "section 211".

On page 111, lines 14 and 15, strike out "section 210" and insert "section 211".

On page 118, strike out line 15.

On page 118, line 16, strike out "(J)" and insert "(I)".

On page 118, line 17, strike out "(K)" and insert "(J)".

On page 118, line 18, strike out "(L)" and insert "(K)".

On page 118, line 19, strike out "(M)" and insert "(L)".

On page 119, line 20, immediately after the semicolon, strike out "and".

On page 119, line 23, strike out the period and insert a semicolon and "and".

On page 119, immediately after line 23, insert the following:

(5) the Office of Indian Education of the Department of Health, Education, and Welfare.

On page 124, line 18, strike out "section 304" and insert "section 302".

On page 139, line 9, strike out "(6)" and insert "(7)".

essary components of contract performance.

"(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.".

(b) Section 103 of such Act is amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Human Services".

(c) Section 104 of such Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

"(1) the development, construction, operation, provision, or maintenance of adequate

serting "Interior, the Secretary of Health and Human Services, and the Secretary of Education".

(f) Section 109 of such Act is amended by inserting "102A," after "102,".

(g) Section 5(a) of such Act is amended by striking out "Interior or the Secretary of Health, Education, and Welfare," and inserting in lieu thereof "Interior, the Secretary of Health and Human Services, or the Secretary of Education".

(h)(1) Section 8 of the Act of August 5, 1954 (42 U.S.C. 2004b) is amended by inserting "102A," after "102,".

(2) The first sentence of section 6(a)(2) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456) is amended by striking out "amended" and inserting "amended, or the Department of Education Organization Act".

On page 144, line 15, strike out "Sec. 512." and insert "Sec. 513.".

One page 145, line 8, strike out "Sec. 513." and insert "Sec. 514.".

On page 72, in the table of contents, renumber the items relating to sections 210 through 214 as the items relating to sections 211 through 215, respectively, and insert immediately after the item relating to section 210 the following:

"Sec. 210. Office of Indian Education.".

On page 73, in the table of contents, renumber the items relating to sections 304 through 308 as the items relating to sections 305 through 309, respectively, and immediately after the item relating to section 303 insert the following:

"Sec. 304. Transfers of Functions From the Department of the Interior.".

On page 74, in the table of contents, renumber the items relating to sections 512 and 513 as the items relating to sections 513 and 514, respectively, and insert immediately after the item relating to section 511 the following:

"SEC. 512. CONTRACTS WITH INDIAN TRIBAL ORGANIZATIONS.".

Mr. BELLMON. Mr. President, one cluster of education programs not included in S. 210 is the Indian education function within the Bureau of Indian Affairs. It is a significant part of this country's commitment to the special educational needs of Indian Americans, and there is no doubt that we must continue to provide the necessary emphasis upon education which this function now represents. However, it is not the only program commitment to Indian education which the Federal Government has initiated. The Indian education programs within the present HEW Office of Education are another similar commitment, and they are included in the consolidation proposed by S. 210.

Since S. 210 does not propose to transfer Indian education from the BIA into the new Department of Education, we will simply continue the curious present arrangement of separate programs addressing the same basic problem. In this time of need to concentrate Federal resources so as to provide the most effective and efficient programs, this seems unwise. My amendment will incorporate the BIA Indian education functions into the proposed Department of Education.

Mr. President, my amendment is motivated not only by the desire for enhanced program cost effectiveness, but also by the stark fact that Indian education remains a substantial and difficult problem, requiring the best and most intensive effort which Federal programs can

This figure will undoubtedly shock every Senator, as it shocked me when I found out about it: The per capita cost of running that school is over $20,000 per student per year. The Indian boarding school at Chilocco has a cost of $20,000 per student per year, largely because the school was built and staffed for a capacity of over 500 students, and at the present time the enrollment figure is down to about a third of that.

Yet the BIA, for some reason, has not seen fit to consolidate this school with others. In my opinion, there is a ripe field here for improvement, and the purpose of this amendment is to try to bring about such an improvement.

I know that the sponsor of the bill has attempted to undertake the same kind of transfer, but for reasons which I am sure are good and valid, he has not gone forward with that proposal. If he would like to comment on this point, I would like to hear from him.

Mr. RIBICOFF. Mr. President, I agree with the proposal of the Senator from Oklahoma, and commend him on it.

I think it is a great tragedy that we have been unable, because we do not have the votes, to put Indian education into the Department of Education. There is no question that the Bureau of Indian Affairs does an abysmal job. But the Indians somehow are under the impression that they are going to be harmed by such a transfer, and have indicated overwhelming opposition.

I think one of the disgraces of this the attention of this body to the basic need that exists to do something for Indian education in this country.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I yield.

Mr. BELLMON. It seems to me that one of the problems here is the question the manager of the bill has just raised, that there seems to be a lack of understanding on the part of Indian leaders as to what would be involved in a transfer, and they seem to be fearful about the unknown.

I wonder if the manager of the bill and the ranking minority member might be willing to join me in a letter to the Comptroller General, Mr. Staats, of the General Accounting Office, to suggest a study of making this transfer at some future time, on either of two bases: Either of transferring all educational functions to the Department of Education, or of off-reservation boarding-schools; and in the course of such a study, hopefully, the Indian leaders would become better able to understand what is involved, having had some input, and perhaps in a year or two another look at this whole matter might be undertaken.

Mr. RIBICOFF. Mr. President, I think the suggestion of the Senator from Oklahoma is sound. I would be pleased to join in such a letter, and hope that the staff will join with him in drafting such a letter to send to Mr. Staats. I assure the Senator that my signature will be placed on that letter.

provide. The problems of Indian education have not dissipated, and this is no time to scatter our efforts to improve Indian education; instead, it is the time to more sharply focus on the special needs of Indian Americans.

I am sure, Mr. President, that there are Indian and other groups who fear the uncertainties raised by the kind of change this amendment represents. I am equally sure that there are Indian and non-Indian groups who do not wish the presently ineffective status quo to continue.

I might say that in my own State, we recently held a meeting on this subject, and I was amazed to find out how unanimous the Indian tribal representatives were in favor of leaving Indian education where it is, in the BIA. These are the same people who, over the years, have complained bitterly of how tribal affairs have been run by the Bureau of Indian Affairs; but yet when you talk about transferring a program from the Indian agency, those same people become ardent defenders of the status quo.

I am also certain, however, that although they defend the status quo, they do not want the same conditions to continue. It is certainly not in the best interests of either Indians or the country as a whole to suffer with the Bureau's legendary inadequacies. My amendment would make a significant improvement in the bill as reported, by moving the BIA educational activities into the new department.

For instance, Mr. President, in my own State of Oklahoma, we have an Indian boarding school run by the BIA.

Nation is the bad quality of Indian education, the disturbing dropout rate, the amount of money that is spent, and the failure to give the Indian children the education they should have in this country.

The OMB realizes the problem, and they are going to do a lot more work in this field. They will be devoting considerable time in the Indian territories and with the Indian tribes to try to explain what their objectives are, what they are seeking to accomplish, and why the Department of Education would be a much better place to assure a better quality of education for the Indians.

As I said on the floor when this bill came up, I do recall, when I was Secretary of HEW, how deeply disturbed President Kennedy and I were with the shocking health statistics and conditions of the Indians. Health then was under the Bureau of Indian Affairs. We were able to transfer the Indian health function to HEW. We felt then that the same should have been done for education, but that was not achieved, and when we brought this matter up on the floor last year, we were defeated.

It would be my hope that after careful study and much more educational work with the Indian leaders, they would realize that the time has come to work out an arrangement to take Indian education outside the jurisdiction of the Bureau of Indian Affairs and finally, for all the money we are spending, begin to meet our obligation as a nation to give quality education to the Indian population of our country. So I am glad that the Senator from Oklahoma has again called

Mr. DANFORTH. Mr. President, I am not the ranking minority member on the committee. Senator PERCY is. He unfortunately cannot be present at this time. I am told by the staff that Senator PERCY would be willing to sign such a letter as suggested by the Senator.

Mr. BELLMON. Mr. President, I appreciate the responses from the manager of the bill and Senator DANFORTH, whether as ranking member or not. I would be anxious to work out the language of such a letter in anticipation of that course of action.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HART). The Senator from Oklahoma.

UP AMENDMENT NO. 100

(Purpose: To make a technical correction)

Mr. BELLMON. Mr. President, I have an unprinted amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 100.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 116, line 12, strike out "1978" and insert "1979".

On page 116, line 13, strike out "1979" and insert "1980".

Mr. BELLMON. Mr. President, this is a technical amendment dealing with typographical errors in the printed version of the bill. It has nothing to do with the substance of the bill.

The sponsor of the legislation is, I believe, aware of the amendment and agrees that these corrections should be made.

Mr. RIBICOFF. Mr. President, this is a technical amendment and is acceptable to the manager of the bill.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 101

(Purpose: To require the President, in making appointments to the Intergovernmental Advisory Council on Education, to select individuals who represent a diversity of geographic areas and demographic characteristics)

Mr. LEAHY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an unprinted amendment numbered 101.

the past, does not exist now, and unless the Intergovernmental Advisory Council on Education has balanced membership, it will never exist in the future.

Mr. President, I want to reiterate my support of S. 210 and compliment Senators RIBICOFF and PERCY on this strong legislation.

Mr. President, I understand this amendment is acceptable to the managers of the bill.

Mr. RIBICOFF. Mr. President, this is an amendment which will improve the bill and which is acceptable. I yield back the remainder of my time.

Mr. LEAHY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 146

(Purpose: To eliminate language relating to the organizational position of education programs in the executive branch of the Government)

Mr. HAYAKAWA. Mr. President, I would like to call up my amendment No. 146 which strikes inappropriate language from S. 210.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes amendment numbered 146.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading

Since education is a function reserved to the States under article I of the Constitution, the structure of the Federal executive branch has little to do with the issue of proper recognition of the importance of education any more than the absence of a Federal police force or fire department means that these functions are not important to the Nation.

I do not think that having a Department of Education would insure greater Presidential attention to or public awareness of our problems in education. We have serious problems in American education—I doubt that you would find anyone to disagree with that—but I fail to see how this new department would force this attention to education.

The problems that exist in American education today are not the results of inattention from anyone. In fact, I would be more inclined to believe that our problems in education have resulted from too much attention from the Federal Government. Removing education from the Department of Health, Education, and Welfare may for some indicate a symbol of Federal urgency, but to others it indicates nothing more than a surface effort to placate those citizens displeased with our present education system. The problems in our education system, and the stagnation within HEW will not be eliminated by reshuffling organizational structure. Our past and present Federal education budgets are not good cases of neglect. The essence of quality government is not the details of organization and structure, but the imagination and talent of the people brought to it.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, strike out lines 12 through 18, and insert the following:

(2) In making appointments under this subsection, the President shall—

(A) consult with a broad cross-section of organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including but not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations; and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

Mr. LEAHY. This legislation effects the composition of the Intergovernmental Advisory Council on Education established by S. 210. Basically, any amendment would guarantee that the membership of that Council be representative of the geographic and demographic distribution of this Nation's population.

I believe this to be a necessary and important improvement to S. 210. It will serve to insure that every sector of the population including the cities, rural areas, and the various geographic regions, have a voice in Federal planning for America's education.

The reasons for this amendment are manifold. If we are to have truly balanced national growth, we must have equity in the planning of our educational programs. This equity has not existed in

of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 75, strike out lines 6 through 9.

On page 75, line 10, strike out "(8)" and insert "(7)".

On page 75, line 15, strike out "(9)" and insert "(8)".

Mr. ROBERT C. BYRD. Will the distinguished Senator yield? I beg his pardon for interrupting.

Mr. HAYAKAWA. I will be glad to yield.

Mr. ROBERT C. BYRD. Could we get the time on this amendment cut down to, say, 20 minutes equally divided? Would that be sufficient?

Mr. HAYAKAWA. That would be sufficient.

Mr. ROBERT C. BYRD. I thank the Senator. Is that agreeable with the Senator from Missouri?

Mr. DANFORTH. Yes.

Mr. ROBERT C. BYRD. And is it agreeable with the Senator from Connecticut?

Mr. RIBICOFF. Yes.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, on page 75, lines 6 through 9 of S. 210, the bill states that—

> Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government.

My amendment would eliminate this language.

The fact that education does not, at this time, have its own department does not mean that education has a low priority in this country. Education has enormous priority in every city, town, and village, much of whose taxes go toward education. The NEA itself has reported that the education enterprise in America represents an expenditure of $70 billion—what kind of negligence to education is this? If there is any one thing that the overwhelming majority of Americans, including children from about 3 years old and up are concerned about, talk about, know about, participate in, and are directly involved in, it is education.

Our schools receive top consideration at every level of government—Federal, State, and local. I fail to see how the establishment of a Federal department would change education's status one bit.

Supporters of S. 210 point to the fact that education directly involves more than 60 million Americans, and that spending on education exceeds spending on national defense. They also mention that it is as important a function as commerce, labor, transportation, or agriculture. I agree that education is as important as health, foreign affairs, defense, and energy, all of which are found in Cabinet roles. But every one of these subjects has a definite Federal role. And although education already has a place in the Federal bureaucracy, it should remain primarily in the hands of our States, localities, parents, and children.

Surveys provided by the American Federation of Teachers showed that less than 15 percent of the American people believe that the problems of education can be solved at the Federal level; and when polled regarding their views on the creation of a Federal department, a majority of those with an opinion oppose the creation of this department. Even more are opposed to the department when the sample consisted only of parents with school-age children. The percentage against is higher still when only minority parents were asked. "Increased status and attention to education" are ambiguous words that could mean an increased Federal role not supported by most Americans.

To give a little history about the creation of new Federal departments, I would like to read just two short paragraphs from an editorial that appeared in the October 9, 1978, Washington Post:

> The decision to establish a new federal department usually constitutes a statement of new federal purpose. The most recent department, Energy, was a response to the oil crisis of 1973–4 and to the realization that the country was going to need stronger and better-calculated policy. The Transportation Department was set up in 1966 to bring order among the dozens of bureaus and boards that, with steadily rising federal outlays, were working not only at cross purposes with each other but frequently in competition with each other.
>
> You could make a case for this department if there were a great and urgent necessity for broad new federal authority over the schools. But the present pattern of decentralized control is working very well. You could also make a case if you believed that state and local school systems were in deep financial need from which only huge new federal

(Mr. HEFLIN assumed the chair.)

Mr. DANFORTH. Mr. President, I think the point that the Senator from California has made is a very good point and it deserves repetition. The point that the Senator from California has made, as I understand it, is that we must be very careful not to transfer responsibility for decisionmaking from local school boards to a giant new Federal bureaucracy in the name of reorganizing the Federal Government. This is a point which has been made repeatedly over the last 2 years, as the Department of Education was considered before the Governmental Affairs Committee, and also on the floor of the Senate, last year and again this year.

Over and over again, during the hearings, last year and this year, the point was made by witnesses and by Senators questioning the witnesses that it was not the intention to create a new type of bureaucracy which would assume greater responsibility for decisionmaking from the local school board. Again, during markup, both last year and this year, amendments were offered which were designed to make it abundantly clear in the text of the bill that the effort was not to transfer decisionmaking responsibility to the new Department of Education, which responsibility has historically been vested in the local school boards.

Again, on the floor of the Senate, both last year and this year, colloquies were very carefully worked out involving Senator RIBICOFF, the chairman of the Governmental Affairs Comimttee, and Senaing of the purpose of my amendment. I believe that the addition of those two words, "Federal" before "education" and "programs" after "education," and leaving that whole paragraph to stand with that revision does achieve the purposes I was seeking in the amendment. I am very happy to accept the suggestion of the distinguished Senator from Missouri.

I, therefore, ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator send the modification to the amendment to the desk? The clerk will state the modification.

The second assistant legislative clerk read as follows:

> On page 75, line line 7, insert "Federal" before "education" and insert "programs" after education.

The amendment was so modified.

Mr. RIBICOFF. Mr. President, the amendment of the Senator from California, as modified, is acceptable to the manager of the bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 146), as modified, was agreed to.

THE ESTABLISHMENT OF A DEPARTMENT OF EDUCATION

Mr. HARRY F. BYRD, JR. Mr. President, the establishment of a Department of Education, in my view, is ill-advised.

> appropriations could rescue them. But at the moment the state and local governments are, collectively, running a surplus of $10 billion a year while the federal budget is $38 billion in the red . . . the legislation's sponsors are still unable to demonstrate any plausible public benefit in it. On the contrary, by inviting greater federal intervention and distorting the present satisfactory balance of responsibilities, it is a good deal more likely to bring real harm.
>
> Even Secretary of HEW Califano has said that a separate department would not be "answering to its obvious constituency—students and parents—but to administrators and teachers who would assert an unwarranted degree of influence."

There is no question that our national educational efforts must be reviewed, strengthened, and improved. We spend dollar after dollar, and our children still cannot read. Something is wrong, but the cosmetic change of this new department rather than facing and dealing with the problems in American education will not help our children, and we in Congress should be embarrassed for even suggesting that it could.

In short, I do not think that having this department would insure greater attention to our problems. We do have problems in education, but a separate department would not solve them. If garnering greater Federal attention and control of our education policies is what the sponsors of S. 210 have in mind, then the language I propose to delete should remain in the bill. But if we want the control of our education to remain in the hands of States, localities, and parents, then we should adopt my amendment.

tor PERCY, the ranking minority member, together with other Senators, including Senator ROTH and myself, to create the clearest possible legislative history for the proposition that we were not attempting to transfer decisionmaking responsibility to the new Department of Education, which had historically been vested in the local school boards.

I think that the Senator from California is attempting to make the same point. I agree with that point. I think it is the same point that was made by the Senator from California and the junior Senator from New York during discussion of an earlier amendment. But I wonder if the same result would not be accomplished if, instead of the amendment which the Senator from California is proposing, which would strike line 7 on page 75, we made it clear that Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and if, instead of striking paragraph 7, it could be amended by inserting before the word, "education" the word "Federal," and after the word, "education," the word, "programs."

Would the Senator from California consider withdrawing the amendment that was offered and substituting therefor an amendment which would insert the word, "Federal," before the word, "education," and the word, "programs," after "education"

Mr. HAYAKAWA. Mr. President, I thank the distinguished Senator from Missouri for his profound understand-

We have a long and strong tradition of determining education policy at the State and local levels. This is exactly where these decisions should be. Local jurisdictions can best determine local needs.

Notwithstanding language included in the legislation designed to allay fears of Federal control of education, the historic pattern of growth of the existing Federal agencies convinces me that a separate Department of Education would inevitably—inevitably—magnify the problems of State and local educators.

It is well known that the burden of excessive Federal regulations, reporting requirements, and intrusion into the affairs of our educational institutions is one of the most serious problems they face.

As stated in an editorial appearing in the University of Virginia's Cavalier Daily:

> Federal agencies, once formed, tend to grow and enlarge their spheres of influence. I would add, grow, and grow, and grow; regulate, regulate and regulate.

Two years ago, I voted in favor of the creation of a new Department of Energy in the hope of consolidating overlapping and duplicative programs (thus reducing personnel requirements) and to increase efficiency in this vital area of Government. Unfortunately, the evidence indicates that the administration of energy matters is now more costly, personnel has been increased, and no major gains in efficiency have been apparent. Furthermore, regulations and rulemaking are almost daily forthcoming. This is streamlining?

Except for impact aid, which goes to local school Districts with no strings attached, most education funds have been targeted to this category and that category with very specific strings attached thereto.

A new Department of Education, it is said, will strengthen the commitment to education as a national priority. This can only mean the probability of more and bigger categorical programs and more Federal controls.

As Mr. William Raspberry pointed out in his column in the Washington Post entitled "A Federal Education Policy?" last January:

> . . . do they think for one moment that they could get more Washington money without more Washington standard-setting?

The answer is "no"—with Federal funds goes Federal control. Nowhere has this been more amply demonstrated than in the administration of the categorical education programs since the Education Act of 1965, when Federal funding of education programs was substantially expanded, and in the years since.

A Department of Education would only more firmly entrench and expand Federal control. It would have a vested self-interest in doing so, Mr. President. It would also have a vested interest in retaining categorical programs, as opposed to block grants. To lose control of local schools would reduce its control of its new empire.

All in all, Americans—and certainly Virginians—support education, but they want to keep as much authority over it the world that does not have a ministry of education."

Mondale's reasoning is illogical. America's educational system tops those of other industrial democracies, possibly because it lacks a federal ministry. State and local governments spend 38 percent of their budgets on education; their influence has made diversity, individualism and local involvement bywords of America's educational system. Federal agencies, once formed, tend to grow and enlarge their spheres of influence. We would hate to see the federal government chip away at the power of state and local agencies: the very elements that have made America's educational system successful.

Mondale, the National Education Association and other supporters of the bill say that education issues will be more "visible" if education's highest official can address the President at a cabinet meeting. But an education proposal should be appreciated for its own merits, not because an enormous education lobbying group favors it.

Educational programs currently are scattered through many departments and agencies; the Carter administration views this as a bureaucratic dilemma. But it has proposed a new bureaucracy (300 new administrative positions) to solve an excess of bureaucracy. The battle over jurisdiction and reorganization of the education programs will create more problems than it solves.

Last but not least, the consolidation of federal education programs could invite trouble from the executive branch. A president sensitive to an upswell of public opinion against education could take wide swipes at research agencies—the National Science Foundation, for example—if he had a lone Secretary of Education under his thumb. We hope Congress will poke holes through the education department proposal, exposing it as a superficial solution to problems that are largely nonexistent.

(for high school graduation, for instance) vary so much from jurisdiction to jurisdiction that a diploma cannot be taken at face value. Why not a single, federal standard?

Wouldn't it make sense to have consistent standards to determine what and how much children should be expected to learn at every grade level? After all, we already have nationally standardized tests to see what they've absorbed.

"That's easy enough for you noneducators to say," one government official told me. "But if one of us said it, I can predict what would happen.

"The first day, there would be applause. The second day, the unions and chief state school officials and the school boards would attack.

"And the third day, the same people who thought it such a wonderful idea on Day One would begin saying, 'On second thought . . .' "

The scenario might not be far off. The teachers' unions—including members of the National Education Association, one of the major lobbyists for the proposed department—would quickly learn that national standards for what and how much should be taught naturally lead to national standards for determining who is qualified to teach it. All teachers' colleges are not created equal.

The state and bounty school authorities would attack because they are responsible for running some of these bad schools. The school boards would resent the federal usurpation of their policy-making role.

Okay, I know that the supporters of the proposed department don't anticipate federal standard-setting and policy-making. Their dubious rationale is that a president would pay more attention to education if its interests were articulated at the Cabinet level. Thus, a Department of Education would enhance the visibility and prestige as possible in their local communities. We have too much Washington control now.

The people do not want a new Washington bureaucracy, in my judgment, to further erode local responsibilities.

Nor do I. I shall vote against the pending bill.

Mr. President, I ask unanimous consent that the text of the Cavalier Daily editorial and the William Raspberry column to which I have referred, together with editorials from the Washington Post and New York Times opposing the creation of this new Department be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the University of Virginia Cavalier Daily, Feb. 14, 1979]

A Department of Education

Last year we objected to President Carter's proposal of a cabinet-level Department of Education because we couldn't see the use of it. After civil service and Department of Energy proposals, we thought it was merely the third and most cosmetic volley on Carter's "government reorganization" hit list. We specifically disliked the plan to shift HEW programs like Head Start to the Department of Education—a proposal that has been dropped since. But the administration's proposal remains unpalatable because it lacks convincing arguments.

When the bill was introduced in the Senate last week, Vice President Mondale argued in favor of it. Actually his comments substantiated our belief that the bill's chief appeal is cosmetic. In a briefing, Mondale supported the bill because the United States "is the only major industrial democracy in

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[From the Washington Post, Jan. 26, 1979]

A Federal Education Policy?

(By William Raspberry)

I suppose there may be some bureaucratic efficiencies that have resulted from the creation of the Department of Energy.

But bureaucratic efficiency was not the reason for creating the department. President Carter wanted to pull together the bits and pieces of energy programs scattered throughout the federal bureaucracy for one principal reason: so that the federal government could bring a unified approach to energy—so it could get a handle on energy policy.

Similarly, there might be some efficiencies that would result from the creation of a Department of Education, though I doubt it.

But don't kid yourself for one second that efficiency is the reason the backers of the idea are so fervent about it. The real reason is that pulling together the bits and pieces of education-linked programs presently scattered throughout the federal bureaucracy would give the federal government—and those who could reasonably expect to influence the new department—a handle on educational policy.

The difference between the two things is this: We were pretty well agreed that we needed a national, consistent federal policy on energy. But we are by no means agreed that we want a federal policy on education, with Washington taking over more of the policy function now relegated to state and local officials.

We aren't agreed because we haven't even debated the question. We haven't understood that the creation of a Department of Education is in fact a policy question, not merely a matter of efficiency.

Do we want a federal policy on education? The impulse is to say: Why not? Standards

of education within the federal establishment.

But visibility and prestige for *what?* For greater federal outlays? Is there any reason to suppose that creation of the department would in fact increase the amount of federal money available? And if it did, do they think for one moment that they could get more Washington money without more Washington standard-setting?

Maybe we ought to have national standards and educational policy. The point is, you cannot create a Department of Education first and decide the question of policy and standards later.

The creation of the department is a policy decision—even if it masquerades as reorganization for bureaucratic efficiency.

We ought to keep that in mind when the proposal is taken up again, probably later this month.

[From the Washington Post, Feb. 11, 1979]

The Education Department—Again

Never underestimate the power of a bad idea to generate bad arguments. Vice President Mondale's remarks the other day in favor of the creation of a Cabinet-level Department of Education were an example. The vice president, in a briefing, made the point that the United States "is the only major industrial democracy in the world that does not have a department or a ministry of education," although, to our certain knowledge, this is neither a symptom nor a source of what is wrong with American education. Mr. Mondale, according to the news story, also suggested that education "suffers because its highest official 'is not at that Cabinet-table speaking directly to the president.' "

You would hardly judge from any of this that the United States is also the only major industrial democracy (or any sort of country) in the world in which three quarters of the children graduate from high school, and half of those graduates go on to college. And we also question whether, despite the proponents' assurances, a new federal department would not subtly and unwisely enlarge the federal jurisdiction in the schools. In theory anyway, education remains a primary function of the states and localities, which is surely one reason this country has not had a national ministry of education as part of its political tradition. We think it is a tradition worth holding on to.

It is, of course, true that much of the money for our public schools now comes from general revenues and that there has been a vast increase of federal involvement in public education over the past couple of decades. But both the money and the involvement can be managed by government instrumentalities now available to do so. It is argued by those who favor the new department that it would work pretty much as a harmless conduit of federal funds and coordinator of federal programs, all the while respecting the primacy of the states and localities in school affairs, and that it would do all this much more efficiently than is done under the present slovenly dispensation. Consulting ancient and modern bureaucratic precedent and looking around us at the evidence of our senses, we discover no reason at all to believe this is how things will turn out. They never do. Look at the Labor Department. Look at Commerce. A Department of Education, if such unfortunately is enacted into law, will become a gigantic single-minded lobbying outfit. It will be the NEA writ large.

Anyone who observed last year's congressional proceedings on this subject—the hearings, committee debates and so forth—should understand that what we really have here is a fight over turf: who gets which

Even more worrisome would be the intimate relationship that might develop between a separate education department and the National Education Association. The N.E.A. represents the professional public school establishment—a vital part of education, but still only a part. It is committed to a much larger Federal role in school financing than is compatible with the tradition of state and local responsibility.

Finally, the creation of a separate department could impel a host of other groups to mount special-interest campaigns for a Department of Science, a Department of Women, a Department of Consumers. There is already too much precedent feeding such appetites. Consider the subject of economic development, now dissipated in the Departments of Housing and Urban Development, Labor, Agriculture, Commerce, Interior and Transportation. Reorganization should be moving in the opposite direction.

President Carter supported a department for education only to fulfill a campaign pledge to the N.E.A. He would be wise now to accept the House leaders' well-considered second thoughts and let the matter drop. The energies of the White House would be better devoted to the long-overdue reorganization of H.E.W. to make that colossus more efficient and to give E an equal place there with H and W.

Mr. HARRY F. BYRD, JR. Mr. President, I yield back the remainder of my time.

Mr. PRYOR. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Connecticut has 170 minutes. The Senator from Missouri has 176 minutes.

number of personnel transferred, under the authority of this Act, to the Department from other departments and agencies during fiscal year 1980, as determined by the Director of the Office of Management and Budget.

(2) For the fiscal year beginning October 1, 1981, and ending September 30, 1982, the Department is authorized an end strength for personnel in an amount equal to the amount described in paragraph (1) minus 100.

(3) For the fiscal year beginning October 1, 1982, and ending September 30, 1983, the Department is authorized an end strength for personnel in an amount equal to the amount described in paragraph (1) minus 200.

(4) For the fiscal year beginning October 1, 1983 and ending September 30, 1984, the Department is authorized an end strength for personnel in an amount equal to the amount described in paragraph (1) minus 300.

(5) For the fiscal year beginning October 1, 1984, an ending September 30, 1985, the Department is authorized an end strength for personnel in an amount equal to the number described in paragraph (1) minus 400.

(d) If the Secretary determines that such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during each of the fiscal years specified in subsections (b) and (c) in excess of the number authorized under such subsections, but the number of such additional personnel employed in any such fiscal year may not exceed 1 percent of the number authorized under such subsections.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

hunk of jurisdiction over whom and what and how much money. Evidently the administration, in coming back with its Education Department legislation in this Congress, has carved up the turf in a new and politically more persuasive way, so that the proposal is likely to have a smoother time this year. We hope it does not. The purpose of the federal government—as we keep harping when this proposal comes up—should be to fit federal education programs into a system of priorities and values *larger* than the education industry's perspective permits it to see, not to break off those programs into a client- and constituent-run principality of its own.

The best thing that could happen to President Carter's proposal for a department of education, from his point of view and everyone else's, would be for Congress to bury it.

[From the New York Times, Jan. 16, 1979]

AN ILLUSION OF EDUCATION REFORM

In what seemed like a well-planned omission, Congress concluded its last session without acting on the proposal to create a separate Department of Education. The measure had been overwhelmingly approved by the Senate, but it died quickly when the House leadership failed to bring it to the floor. Now here is a new Congress and, fortunately, President Carter says that he'll try again.

A separate Department of Education would provide merely the illusion of reform. Unless all education-related times were to be plucked from their present jurisdictions and lumped together to create the Big E, the new department would carry less clout than education does even in its present inadequate form inside the huge Department of Health, Education and Welfare. But why, for example, would uprooting a program like manpower-training from its functional niche in the Labor Department enhance its effectiveness?

Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 102

(Purpose: To specify the end strength of the Department for fiscal years 1981 through 1985)

Mrs. KASSEBAUM. Mr. President, I call up my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM) proposes an unprinted amendment numbered 102.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. PRYOR. Reserving the right to object, Mr. President, we want the amendment read, if possible, at this time.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On page 114, line 4, immediately before "Congress" insert the following: "Except as provided in subsections (b)(1) and (c),".

On page 114, beginning with the period on line 6, strike out through "year" on line 9.

On page 116, beginning with the word "If" on line 5, strike out through the period on line 11.

On page 116, between lines 15 and 16, insert the following:

(c)(1) For the fiscal year beginning October 1, 1980, and ending September 30, 1981, the Department is authorized an end strength for personnel in an amount equal to the

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislativle clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I should like to speak at this time with respect to the amendment I have offered.

I believe this amendment would strengthen section 403 of the Department of Education bill to assure that the "bureaucratic creep" which this section is intended to avoid is actually avoided. As indicated in the committee report on S. 210, the Office of Management and Budget estimates that 350 to 450 positions would be eliminated through creation of a new Department of Education. My amendment recognizes the difficulties involved in eliminating Federal service positions by means other than attrition and therefore phases in personnel decreases over a period of 5 years. In fiscal year 1981, the end strength of the Department would constitute an amount equal to the number of personnel transferred to the Department from other departments and agencies during fiscal year 1980.

In each of the 4 following fiscal years, end strengths would be reduced by 100 employees. Total personnel reduction by fiscal year 1985 would equal 400—a figure compatible with current OMB estimates. The amendment also offers the Secretary some additional flexibility, in that if it becomes necessary to employ personnel in excess of the numbers specified in any fiscal year, he or she may do so—provided that this additional personnel not exceed 1 percent of the number authorized during that fiscal year.

I think one of the greatest fears Members of Congress and the American public have about the creation of new Federal bureaucracies is the fact that the size of the Federal Government in terms of additional personnel will spurt in growth.

As children, I think we were all fascinated to learn that the huge oak, elm, and maple trees gracing our streets and parks had their origins in small nuts and seeds. Biblical references to the sowing of seeds inform us that good soil and proper nurturing are essential to plant life, while neglect will assure that the seed will never flower. In many respects, the growth of the Federal bureaucracy conscientiously abides by the laws of nature, with the notable exception that the Federal Government offers consistently [illegible]ile ground for full bloom of any seed [illegible]nted and never lacks for constituency groups prepared to nurture it. Pruning is accomplished not by discarding overgrowths, but rather by transplanting them elsewhere to flourish and procreate.

In adding section 403 to this bill, proponents expressed a desire to exert congressional control over the level of personnel in the new Department. They doubtlessly considered past experiences with new programs and agencies, noting that an unchecked bureaucracy will ways, although there are variations, it duplicates an amendment by the distinguished Senator from Oklahoma which was accepted during her absence from the floor.

The distinguished Senator from Alabama, the ranking minority member of the Budget Committee, specifically stated that each year, Congress would have to authorize the personnel strength. What the distinguished Senator from Kansas wants to do is to set the specific number. They decline from 100, 200, 300, and 400 each year.

At this time, it is impossible to know whether there will be any other function that Congress might direct the Department to undertake, but the amendment of the distinguished Senator from Oklahoma (Mr. BELLMON) specifically requires the reauthorization each year. In that way, Congress is mandated to look at the figures and make the determination, so it is not locked in.

I say respectfully that, while there is a similarity, I believe the approach taken by the Senator from Oklahoma is sound and carries out the same objective that the Senator from Kansas seeks to present at this time. I regret that the distinguished Senator from Kansas was not present when we discussed the Bellmon amendment.

Mr. DANFORTH. Mr. President, I think that the point made by the Senator from Kansas is an excellent point, and it is one I tried to address when Senator BELLMON offered his amendment.

But I am wondering if for at least the initial year we might try the Bellmon approach and just commit ourselves to be observant as to how it is going, and if we are not doing a good enough job controlling the growth of the bureaucracy in this way then we can attack it root and branch, so to speak.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I think the Senator's objective is absolutely sound. I do believe the distinguished Senator is on the Budget Committee. There is a great opportunity here, as long as the Senator does have this interest and Senator BELLMON has this objective, when the Senator examines the targets to see what the programs are, ask the questions, and do the oversight, if the Senator does not believe the Human Resources Committee is doing it, to make sure that the Senator's objective is being achieved. I do think the Senator does have that opportunity on the Budget Committee to assure that the targets that the Senator has in mind are realistic when they are combined with the Bellmon approach.

Mrs. KASSEBAUM. Mr. President, even though I am not in favor of this bill, I hope that these persuasive arguments and assurances will strengthen Senate accountability for appropriate administration of this portion of the bill, and I withdraw my amendment as proposed.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. RIBICOFF. I thank the distinguished Senator.

quickly expand beyond the wildest expectations of those who created it. I applaud efforts to make this Department different in that respect, but am concerned that the initial resolve in this area may fade in the future without a specific plan of action for guaranteeing personnel reductions. Under the press of other legislative business, Members of Congress may not have sufficient time to adequately consider each year the maximum number of personnel the Department should employ. Arguments for a "few extra people" each year may well be accepted as reasonable requests, resulting in a cumulative growth which is not anticipated by OMB or proponents of the legislation.

I feel the amendment I am offering takes a reasonable approach toward accomplishing intended personnel reductions and the cost savings anticipated from them. Five years from now, I hope I do not have to attempt to explain to my constituents that their demands in 1978 and 1979 for less Government and reduced Federal spending were somehow forgotten while an independent "E" followed the expansive example of the "H" and "W" components of the Department which originally housed it.

I hope that my colleagues in the Senate will go on record as affirming congressional commitment to personnel reductions envisioned for this new Department by offering their support for my amendment.

Mr. RIBICOFF. Mr. President, the objectives of the distinguished Senator from Kansas are sound; but in many

It may be that after we have some experience with the Department of Education, we should modify the approach that Senator BELLMON has taken and move toward the variation on the same theme which the Senator from Kansas is suggesting.

I wonder whether it would not make sense to try out the Bellmon approach first and see if it provides that more flexible approach, if that suffices. If it does not, and if we find that, despite Senator BELLMON's approach, we continue to permit the Department of Education to expand the bureaucracy, to proliferate its costs to increase, then the time might come, as part of the oversight process, to take a look at what is going on and to change the process.

Mrs. KASSEBAUM. Mr. President, I say to my distinguished neighbor from Missouri that I would be glad to do that. However, my amendment is an attempt to address more specifically than Senator BELLMON's amendment has done the growing, and very easily growing, bureaucracy for which there is little accounting, and our frustration in dealing with that growth. Even though each year we would be readdressing the problem, somehow we get very busy and we fail to give it the clear analysis that I think it is due and would be required of us. This would be my concern.

Mr. DANFORTH. Right. There is no doubt that has been our history. We spend much more time passing new laws than we do reviewing how the old ones are operating. The tendency is to let this sort of thing get lost in the shuffle.

AMENDMENT NO. 140

(Purpose: To eliminate conflicts in regulations of various Federal agencies and executive departments)

Mr. HATCH. Mr. President, I call up amendment No. 140 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 140.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 120, after line 22, insert the following new subsections:

(b) Whenever any rule or regulation issued by the Secretary for the Department conflicts in content or purpose with any other rule or regulation issued by another department or agency of the Federal Government, the President shall determine which shall have precedence.

(c) Whenever two or more rules issued by the Department conflict in content or purpose, the Secretary shall determine which shall have precedence.

(d) Local education authorities shall not be penalized for being in compliance with only one rule or regulation in the event two or more rules and regulations issued by departments or agencies of the Federal Government are both applicable and conflicting.

Mr. HATCH. Mr. President, I send a modification to the desk to amendment No. 140 and ask that my amendment No. 140 be immediately modified thereby.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The modified amendment will be stated.

The assistant legislative clerk proceeded to read the amendment, as modified.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 80, after line 5, insert the following paragraphs and redesignate succeeding paragraphs accordingly:

"(2) Local Education Authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other federal department or agency or with any other subdivision of the Department.

(3) If the Under Secretary determines that such a conflict does exist, the Under Secretary shall report such conflict or conflicts to the appropriate federal department or agency together with his recommendations for the correction of the conflict. The Under Secretary, together with the appropriate federal agency, shall consider such cases of conflicting regulations within a period not to exceed ninety (90) days, and shall make recommendations for resolving such conflict, including any appropriate relief for the Local Education Authority or Authorities bringing the case to the Department."

Mr. HATCH. Mr. President, this ranking minority manager of the bill, will accept my amendment as modified.

Mr. RIBICOFF. Mr. President, I commend the distinguished Senator from Utah. I think he has pointed out one of the great problems throughout the Federal Government, the conflict that exists between various agencies with similar jurisdiction, causing great concern and loss of time and confusion with local and State governmental agencies.

This is an excellent amendment, as modified, and as manager of the bill I accept it, and I yield back the remainder of my time.

Mr. HATCH. Mr. President, I yield back the remainder of my time and at this time I move for the amendment's adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Utah.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 141

(Purpose: To provide substantive opportunity to local education authorities to participate in the Federal rule-making process)

Mr. HATCH. Mr. President, I call up amendment No. 141 and ask for its immediate consideration.

The PRESIDING OFFICER. The

lication of the proposed rule or regulation being in the Federal Register.

Mr. HATCH. Mr. President, I point out the modification contains one modification which changes the word "final" to "the publication of the proposed rule or regulation being", if that will assist my friend and colleague from Connecticut.

Mr. President, of all the concerns expressed by the opponents of a Department of Education, the one heard most often is that the Department would federalize education, that the weight and power of the Federal structure would soon become overbearing on our local school districts.

Frankly, Mr. President, I think our colleagues have every right to this apprehension about the proposed Department. Many Utahans harbor these reservations and I am offering this amendment on behalf of Senator GARN and myself to help alleviate them.

I ask unanimous consent that Senator GARN be listed as a cosponsor on the amendment if he is not already.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. The amendment calls on the Secretary to make reasonable efforts to inform and advise the local units about the rule and regulation and permits a majority of local education authorities to disapprove a Department of Education rule or regulation within 30 days of its publication in proposed form in the Federal Register.

This idea is a second cousin to the

amendment is a commonsense provision that I think would be worthwhile to include in all enacting legislation. Our citizens have been plagued by Federal overlapping jurisdictions as well as by other conflicting regulations issued by either the same or different departments and agencies.

There has never been a mechanism established to deal with this problem in a timely fashion. When two or three Federal agencies, or their subdivisions are in conflict, citizens or organizations are left in the lurch, uncertain of how to proceed or what will happen if they cannot comply with these conflicting regulations.

Mr. President, my amendment is straightforward. It simply states that when a rule or regulation of the Department of Education is in conflict with a regulation issued by another Federal agency, that the Under Secretary together with the officials of those agencies involved shall make recommendations to both resolve the conflict and provide relief of the local education authorities caught in the bind of such redtape. The amendment will protect local schools against long, drawn out interagency differences which inevitably disrupt the normal course of education.

Mr. President, I express my appreciation to the distinguished manager of the bill, the Senator from Connecticut, and especially to his staff for their cooperation in arriving at this wholly acceptable language.

So it is my understanding that the distinguished Senator from Connecticut, the majority manager of the bill, and the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 141.

On page 120, after line 22, insert the following subsection:

(b) In promulgating such rules and regulations, the Secretary shall—

(1) make all reasonable effort to alert the appropriate officials of the local education authorities as to the purpose and content of the proposed rule or regulation, and

(2) withdraw such rule or regulation if a majority of local education authorities notify the Secretary in writing of their disapproval within thirty days of the final rule or regulation being published in the Federal Register.

Mr. HATCH. Mr. President, I send a modification of my amendment to the desk and move to modify my amendment.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) for himself and Mr. GARN proposes amendment No. 141, as modified:

On page 120, after line 22, insert the following:

"(b) In promulgating such rules and regulations, the Secretary shall—

(1) make all reasonable effort to alert the appropriate officials of the Local Education Authorities as to the purpose and content of the proposed rule or regulation, and

(2) withdraw such rule or regulation if a majority of Local Education Authorities notify the Secretary in writing of their disapproval within thirty (30) days of the pub- now popular concept of the legislative veto. Its adoption as part of this legislation would cement the purpose of the Department to be complementary to the efforts of local schools and to assist in the coordination of education activities. It would assure State and local education administrations of their continued authority and provide them definitive input into how the Federal Government can affect the operation and quality of education in the schools of their jurisdiction.

Mr. President, we have all too often made the hasty assumption that our State and local governments will only be helped by Federal initiatives. On the contrary, the Department of Education is a proposal which could over time usurp a number of important prerogatives now held by local education authorities. The National School Boards Association, in their testimony in favor of H.R. 2444, the House companion to S. 210, made the little recognized observation that one of the three ways the Federal level can most infringe on local schools' operation is the regulatory process. I quote from Linda Albert's testimony:

> Federal bureaucrats have at times misconstrued congressional intent either in the nature of intergovernmental relationships or the depth of Federal regulation . . . regulations have unnecessarily limited local policy options because of personal educational agendas, as well as audit, data collection, and other paperwork requirements imposed by Federal bureaucrats . . .

Ms. Albert goes on to state that the National School Boards Association believes that a Federal Department of Education can serve to remedy some of this regulatory indiscretion. Perhaps this assessment is correct. I do not, however, think that the options available to local education authorities are sufficient in the context of regulatory and program complexity alluded to in Ms. Albert's remarks. I applaud my friend, Senator RIBICOFF, and the other sponsors of this measure for incorporating into the bill an important role for local school governments as consultants and advisers.

I am very pleased with that, and I am pleased with the efforts of my distinguished colleagues in agreeing to have that in the bill. The bill often directs the various officials of the proposed Department to solicit the input of the local school administration.

My reservation, Mr. President, is that all the input in the world does not guarantee action in accordance with such input. Presently, local education authorities, just as any other interested party, may comment on proposed Federal regulations prior to the issuance of the final directive. This process has not changed the burden of Federal regulatory compliance appreciably, nor has it eliminated much paperwork. My amendment provides such a guarantee. It is an established mechanism by which a majority of local education authorities can influence the process which affects them directly.

I know Senator RIBICOFF's concern is his view that my amendment would compromise the relationship of the Federal Government to that of the States and local units or government. However, we They certainly know better than Federal bureaucrats what is necessary and appropriate for their schools. They know the real costs of regulatory compliance, and they know how these costs translate into first, a financial drain and next, a curtailment of educational opportunity for children.

All across the country, school systems are having to cut back on teachers, enrichment curricula such as art and music, and other purchases which are important to education.

The amendment proposed by Senator GARN and myself acknowledges that the local education authority is unique in this way and advocates a definitive role for the local units in the regulatory process.

This role can in no way be construed as interference. The nominal additional effort required of the Department of Education is warrented to protect the concept of local school control. We must always ask ourselves, "Just who is interfering with whom?" Local units of government charged with the responsibility for education should not and will not be inhibited by forcing the Department of Education to withdraw proposed regulations which are unsound.

Mr. President, I realize that the likelihood of having a majority of local education authorities, which is a few more than 8,000, take positive action to disapprove a rule or regulation within a 30-day period is remote. These provisions were made, however, so that only those rules to make certain that that would not happen.

The bill has been strengthened this year, and I am pleased to be sponsoring an amendment with my colleague, Senator HATCH, which will help to preserve the traditional role and responsibility of education; that is, the maintaining of the responsibility for education with State and local school authorities.

Our amendment simply stated would require that the Secretary of Education make a reasonable effort to inform local school authority (LEA's) of proposed regulations and rulemaking. It further provides that a majority of LEA's shall cause the Secretary to withdraw the proposed regulation or rule if written statements of disapproval are received within 30 days of the publication of the proposed final regulation or rule.

Mr. President, the Governmental Affairs Committee has worked hard to preserve the rights and prerogatives of State and local authorities in the education process, and I applaud their efforts. But what we are simply trying to do with this amendment is to further clarify and put some teeth into the local control issue.

It is too easy for many of us in Congress to blame the bureaucracy for cumbersome regulations. Certainly they are responsible, but Congress must also share in the blame. We are too willing to pass legislation without clearly and statutorily stating our purpose, and the bureaucrat is left with the job of reading are dealing here with the traditional concept of school administration. I have not encountered one legislator, in the Senate or in the House of Representatives, who will publicly claim support for a Federal takeover of education policy. We all recognize the roots of education in this country and seek to preserve them. It is this recognition that should help to alleviate the apprehension of my friend, the Senator from Connecticut. The power of decisionmaking has always been recognized to be from the local levels up to the Federal. While the advent of Federal funding programs for education has inevitably cost the local education authorities some degree of autonomy, the understanding of Congress and of the Department of Health, Education, and Welfare has continued to be that the decisions of local school districts are those which are best geared to serve their local schoolchildren and parents. Federal policy in education has always been to maximize the superiority of locally decided and developed education policy.

Further, Congress has the power to delegate this responsibility to local education authorities. There is no law which says that the Congress may not allow the direct participation of the subordinate units of Government.

The argument has also been put forth that individual school districts will not understand the complete rationale for the regulations being issued. I think the opposite. I think those people who are elected or appointed by the citizens in the local school districts are well informed and understand all the implications of proposed regulations or regulations universally thought to be not in the best interests of education would have a chance of being withdrawn. The actual revocation of a rule or regulation will not take place for only a few. The mandate must be significant.

The entire idea here is to incorporate into this legislation a solid means for local education authorities to influence the regulations which affect them and the youth for whom they are trying to provide. I hope all Senators will consider these points carefully and support this essential amendment.

At this time I yield to my senior colleague from Utah (Mr. GARN), who is a cosponsor of this amendment.

Mr. GARN. Mr. President, I thank my colleague from Utah.

Last year when this bill came before the Senate I very reluctantly voted for it. I felt very strongly that the consolidation of administrative functions and giving education a high visibility were important, and from that standpoint supportive.

My reluctance came from the fear that by creating a single agency we would have difficulties in maintaining local control, and that a lot of the power of local education authorities could be destroyed.

In colloquy on the floor with the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) they agreed that this could be a problem, and it certainly was not their intent that the new Department of Education would get involved in local decisionmaking. So in that colloquy, in report language, we tried our minds. In essence, this becomes the fourth branch of our Government, and the bureaucrats have a power they should not have.

Mr. President, the bill states that the Under Secretary will be the spokesman, or if you will, the watchdog for the interest of local education. The Under Secretary is mandated, to quote from the committee report:

> To assure that appropriate officials with the Department consult with state and local education policy-makers concerning differences over education policies, programs and procedures and concerning the impact of the Department's rules and regulations on the States and localities.

The Under Secretary will also be a member of the Intergovernmental Advisory Council on Education which is the Council that will advise the Secretary and President on intergovernmental problems, progress and concerns regarding education and intergovernmental relations. In addition to the Under Secretary, the Council will be composed of 24 members representing governors, legislators, education officers, local school boards, and the public.

The Council at its discretion may review existing and proposed rules or regulations and may make recommendations to the Secretary. The Secretary must respond to those recommendations.

Mr. President, this is fine as far as it goes. The consulting with LEA's is imperative, and hopefully the Council will be the watchdog we all hope it will be. But why stop here? Why not continue to give the LEA's, the people who have to live and work with the rules and regulations, the chance to comment on the final regulations before they are published in the Federal Register? The bill mandates consulting with these groups all during the planning process, and hopefully this will alleviate many of the problems. But we should not leave them out of the final process. Our amendment would not. It would allow the LEA's to comment on the proposed final rule or regulation before it is published in the Federal Register. In the event a majority of those responding feel the regulation is usurping local control, it will not be published at all in that form.

Let me give you an example of how this proposal, had it been in effect in 1976, would have saved local educators a lot of frustration and HEW officials heartburn. Many of you may recall that in 1976 HEW announced that because of title IX schools could no longer sponsor father/son or mother/daughter activities. This was, in their opinion, sex discrimination. How ridiculous can the Federal bureaucracy become?

I am sure none of us in supporting title IX ever dreamed that activities which seek to improve the relationship of parent and child, which we all know can be strained at times, would be considered wrong.

And further, what right did HEW have in telling local school districts what type of activities they could have? None, as evidenced by the public outcry from virtually every aspect of our society.

Fortunately, President Ford issued an Executive order to withhold the decision, and in 1976 Congress passed an amendment officially allowing such activities.

be viewed as burdensome by applicant local education authorities (LEA's). By providing these LEA's with what amounts to a veto on all regulations, this type of provision may be impossible to implement, as well as other requirements mandated by Congress.

The amendment gives power over regulations to LEA's who cannot represent the interests of the general public or special groups to which such legislative directives might be intended—for example, States, colleges, unions, nonprofit organizations, commercial organizations. The Department, through an open rulemaking process, must resolve the interests of competing groups and organizations. The amendment would prevent the Department from effectively carrying out this obligation.

S. 210 provides a variety of mechanisms for evaluating the impact of the Department's rules and regulations on States, the local school systems, and tribal governments. The Under Secretary is given specific responsibilities for assuring that officials on the impact of the Department's rules and regulations on their entities. The Intergovernmental Advisory Council on Education, consisting chiefly of State and local officials, has the authority to comment on proposed rules and regulations as well as requiring the Secretary of the Department to respond in writing to such comments.

In addition, the Administrative Procedures Act outlines procedures for public comment in advance of the adoption of the final rule by all interested parties, including State and local authorities.

school districts respond in writing to an agency regarding a regulation is impossible to expect. Further, we can see that a consequence of this activity might be the creation of an "Office of Regulation Complaints" to handle the correspondence.

Finally, we feel that S. 210 contains adequate input by local education authorities in the regulation process. The Department of Education bill is extremely sensitive to intergovernmental concerns. There is ample consultation by the Secretary with individuals on the impacts of regulations, and the Secretary will respond in writing to particular groups' objections to regulations. The Intergovernmental Advisory Council will also comment on the department's rules and regulations.

NSBA supports S. 210 and looks forward to the creation of a responsive, responsible Department of Education.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL SCHOOL BOARDS ASSOCIATION,
Washington, D.C., April 26, 1979.

Hon. ABRAHAM RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: It is our understanding that Senator Hatch will be offering an amendment to S. 210 which would give local education agencies a "veto" over education regulations.

Although school board members across the country are concerned about the burdens of regulations, NSBA does not believe that the regulation process should be altered in this way.

First, we believe that having 8,000 of 16,000

Had the amendment which we are proposing today been in effect, I can assure you it would not have made it past the first round of discussion.

Mr. President, there has been a long tradition in this Nation of local control over education. This tradition is guaranteed by the 10th amendment. It has served us well, and I know that my colleagues want this tradition continued. The committee has made an effort to see that local control of education is protected, and our amendment will help to further clarify this role.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I rise to oppose the amendment.

This amendment would require that a proposed rule or regulation be withdrawn if a majority of local education authorities notify the Secretary in writing of their disapproval within 30 days of the final rule or regulation's publication in the Federal Register.

The amendment essentially gives local education authorities an opportunity to veto the Department's proposed rules or regulations and thereby nullify legislation with which they disagree. It would allow local education authorities to block implementation of statutes that have been adopted and mandated by Congress.

For example, statutory provisions designed to prevent fraud and abuse may Also, transferred to the Department are the authorities under the General Education Provisions Act (Sec. 431(b), 20 U.S.C. 1232(b)) which require public comment during the 30-day period prior to the issuance of such regulations, including the requirement that any interested party be provided an opportunity to comment. The Secretary would then be required to reconsider any proposed education regulation and to publish a statement, accompanying the final regulation, showing how he or she is responding to the comments. Before a regulation becomes final, it must also be sent to Congress for a period which is generally 45 days. If the Congress determines by concurrent resolution that the regulation is inconsistent with the law it purports to implement, the GEPA prohibits the regulation from taking effect.

The existing provisions are quite satisfactory, and I urge my colleagues to defeat this amendment.

Mr. President, this proposal is designed to protect local school boards. Yet the National School Boards Association does not want this power, and has so stated. Under date of April 26, 1979, I have received a letter from the association which reads as follows:

> It is our understanding that Senator Hatch will be offering an amendment to S. 210 which would give local education agencies a "veto" over education regulations.
>
> Although school board members across the country are concerned about the burdens of regulations, NSBA does not believe that the regulation process should be altered in this way.
>
> First, we believe that having 8,000 of 16,000 school districts respond in writing to an agency regarding a regulation is impossible to expect. Further, we can see that a consequence of this activity might be the creation of an "Office of Regulation Complaints" to handle the correspondence.
>
> Finally, we feel that S. 210 contains adequate input by local education authorities in the regulation process. The Department of Education bill is extremely sensitive to intergovernmental concerns. There is ample consultation by the Secretary with individuals on the impacts of regulations, and the Secretary will respond in writing to particular groups' objections to regulations. The Intergovernmental Advisory Council will also comment on the department's rules and regulations.
>
> NSBA supports S. 210 and looks forward to the creation of a responsive, responsible Department of Education.
>
> Sincerely,
>
> MARSHA NYE WICK,
> *Director, Special Legislative Projects.*

Mr. DANFORTH. Mr. President, let me extend my compliments and congratulations to the two Senators from Utah for their creative effort. I think the direction they want to head is exactly right.

My only quarrel would be with the particular vehicle they have selected to reach that destination.

The concern he has expressed through his amendment and by his floor statements for the local school boards is a laudatory concern. It is a concern which was expressed last year and this year repeatedly from the Governmental Affairs Committee and again on the floor of the Senate. It was a concern which yielded a variety of amendments to the bill and a variety of provisions within the bill. What we do not want to do is to have the kind of superagency, superbureaucracy, which is forever handing word down from on high, presenting school boards with ultimatum after ultimatum for how they are to conduct affairs which were previously theirs to conduct.

That is a problem with the Federal Government. It is a problem which extends beyond education. It is a problem which we see manifested over and over again in the relationship between the Federal Government on the one hand and State and local governments on the other.

To flag that problem in connection with this bill, to raise it again, as the Senator has, I believe is very much worthwhile and very much worth doing.

My concern is with the mechanism that the Senator has selected. That concern is raised on practical grounds and also on constitutional grounds.

I do not see how this amendment could work. We have already provided in the bill as it now exists, as Senator Garn has pointed out and as Senator Ribicoff has pointed out, several mechanisms for consultation between the Department of Education and local school boards, between the Intergovernmental Advisory Council and State and local governments. These mechanisms for consultation about rules and regulations have already been provided.

In this amendment, first of all, it provides "in promulgating rules and regulations the Secretary shall"—mandatory—"make all reasonable efforts to just tote up the number of school boards on one side that are for and one side against, even if the school district that is in favor of the regulation or against the regulation has just a handful of kids in the school?

So I think that the mechanism is impractical in the way it has been designed.

Second, I am not sure about this because it is such a novel idea, but I really question its constitutionality. I am not sure whether it is a violation of the guarantee of a republican form of government or a violation of the supremacy clause, or perhaps a violation of the due process clause or equal protection clause of the Constitution. But it appears to me that what the Senator is getting into is not a legislative veto of the executive branch of Government, but a State veto of the Federal Government.

I happen to be a child of State government. I spent 8 years of my life as attorney general of Missouri. I believe in State government. I think we have gone far too far in transferring decisionmaking to the Federal Government. It seems to me that the Senator has really raised constitutional questions when we invest in local school boards the power by kind of unofficial referenda which are carried out by the process of writing letters which are toted up at the end of 30 days to overrule regulations and, through the overrule of regulations, overrule what Congress is intending to do in passing the law in the first place.

Does that create supremacy clause think they have a production, a piecework, sometimes, on regulations.

I could go on for hours about the ridiculousness of some GS-8 in Denver, Colorado, advising an elected official because he thinks he has the next closest thing to eternal life on the face of this Earth, a civil service rating.

On $99\frac{9}{10}$ percent of the regulations, you are not going to have people responding in the mail. It is not going to be a practical problem. But a title IX-type situation, yes, you would have a mechanism that may be a little clumsy, but not nearly as clumsy as all the problems we have had with all the school boards all over this country.

I get tired of the arrogance of the Federal bureaucrats, because they may have gone to Harvard and have a law degree or whatever, and we do have others in this country. The school board members are farmers, businessmen, they are people without PhD's after their name. They are really common, ordinary people. Most of the bureaucrats have a disdain for those people and sit back here and say, "Good heavens, why should we let those poor dumb citizens have any impact on this? We know better. We have to impose it on a New York school city district, just as we do in Panquitch, Utah, without regard to differences of need and attitudes and culture in areas."

Yes, I get upset about it. Maybe this is a little bit clumsy, but not nearly as clumsy as what we put up with. You can go back and look at the legislative his-alert the appropriate officials of local government authorities as to the purpose and content of the proposed rules and regulations."

I take it that that is above and beyond the Federal Register.

I am wondering if this would be subject to judicial review, if it would be subject to challenge on solely procedural grounds, whether notice was adequate; have we opened up a whole new area of litigation, something which would keep our Federal courts even busier deciding matters that previously have not been the courts' to decide.

Secondly, the mechanism for communicating regulations to the local school boards, it would seem to me, would create a flood of mail back and forth, a flood of review.

Finally, how would the majority notify the Secretary in writing? Would they just write a letter? Would the school board have to have a meeting? Would procedures have to be established? Would the school board's procedures for notifying be subject to challenge? Suppose that one-half plus 1 of the school boards notified the Secretary that they disagreed with a regulation and one-half less 1 notified him that they agreed with it. Is there some sort of one-man, one-vote procedure for dealing with that?

Suppose that the school boards in favor of the regulation are New York, Chicago, Los Angeles, Detroit, and St. Louis, and the school boards opposed to the regulation are Monett, Cabool, Mountain Grove? Then what? Do you problems? Does it create problems with respect to the constitutional guarantee of a republican form of government? I think it does. I would have to hit the books to marshal the case, but it seems to me that it really is a clear violation of the whole constitutional scheme of things.

So while I applaud the effort, the creativity, and the general direction in which that the Senator wants to move, I am compelled to oppose this.

Mr. GARN. Mr. President, I will not debate the constitutional aspects of this with my distinguished colleague. I am one of the minority members of this body who is fortunate enough not to be an attorney, and who looks at things from a different aspect. But I do have some comments about the practicality.

My good friend from Missouri is correct, that there are some problems, there is no doubt about it, how they do respond, and so on. But I do not know when practicality or commonsense ever prevented this body from passing anything.

I used to be a mayor. I am a child of local government. I am going to have to be careful because we may launch into a long speech about my 7 years, really not being the mayor of Salt Lake City but the local manager for the Federal Government dealing with some of these idiotic bureaucrats who somehow in their GS ratings think they are brighter than mayors, attorneys general, and governors; who just sit there and have so many regulations to put out by 5 o'clock or get docked in their pay. I tory of the creation of the Health, Education, and Welfare Department. We are saying all the same things about that—

> No, it is not going to intrude; yes it is going to pull all these things together, be more efficient.

Now it has more employees and a bigger budget than a lot of countries in the rest of the world put together except the United States and the Soviet Union. We have created one of the biggest monsters in HEW. Now we want to go and pull education out of it, because it is in this big monster that cannot perform.

That is all we are trying to do. We are trying to put in some things, however clumsy, that may give those local school boards a means of thumbing their noses against all these bureaucrats. Maybe you have not heard how economists get to Washington: They go to Harvard and turn left.

It is incredible that we have to impose this on people who are elected, who are accountable to people. These are appointed civil servants that are never accountable to anybody, any place in this country. They never have to stand for reelection.

Yes, I got heartburn about it. I spent several years dealing with HUD, HEW, DOL. I was the one who had to face reelection. I was the one who had to explain myself while I was reading the Federal Register every day.

That is what we are dealing with. We are dealing with clumsiness, yes; no doubt about it. Some of the Senators criticisms are correct. But it is an attempt to give some people local control, who are responsible to local citizens at elections, and take some power away from bureaucrats. I think that is what we are trying to do.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield such time as the distinguished Senator from California desires.

Mr. HAYAKAWA. Mr. President, I, too, share with my distinguished colleague from Utah (Mr. GARN) the honor of not being a lawyer. Therefore, I am not competent to expound upon the constitutionality of this amendment.

Mr. HATCH. Will the Senator yield on that point?

Mr. HAYAKAWA. Yes.

Mr. HATCH. I have to admit, it is a humbling experience to me as an attorney to learn how we are viewed in Congress. I see absolutely no constitutional problem. I do not see any growth of federalism problem.

In fact, I think it may smack of separation of church and State, separation of State and Federal Governments.

There is no supremacy clause problem, no separation of powers problem, no due process problem here. Nobody is being forced to write any letters, nobody is being asked to write any letters, nobody has to write any letters. But if the local people feel they are oppressed by the bureaucrats here in Washington under this new Department of Education, if more than 4,000 or whatever the 50-plus 1 percent is, write and say, we are not going to put up with the fact that creation is to allow the public to have a greater say in the mechanics of American education. This effort by Senator HATCH does nothing more than to clarify the rights that should already belong to our local education authorities. To vote against this amendment would be, then, to vote against the role of our local school boards in education policy, a role that continues to diminish. We cannot continue to think of local school board participation as interference in our Federal policy. Our Federal departments, agencies, and the like were created to serve the public. To deny the people the opportunity to speak out on the Federal mandates that directly affect them is to deny them their rightful responsibilities.

We in Congress continue to enlarge the Federal Government, and add to the number of laws and regulations that must be adhered to by our constituents. It used to be that complaints about this growth came only from the business sector, or, at least, largely from the business sector, which is by far the most regulated segment of American life. Now, however, the tentacles of bureaucracy reach out to threaten virtually every part of our lives. Not long ago, our colleges and universities were exempt from most regulations, and were not even included in such federally decreed programs as social security and workers' unemployment insurance.

Now, however, 34 congressional committees and at least 79 subcommittees have jurisdiction over 439 separate laws affecting postsecondary education. The

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Maine (Mr. MUSKIE), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of death in the family.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent on official business.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER (Mr. MOYNIHAN). Have all Senators in the Chamber voted?

The result was announced—yeas 48, nays 40, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—48

Baucus
Bellmon
Eagleton
Glenn
Melcher
Metzenbaum

you are going to interfere with the way boys and girls play basketball in Iowa, that girls do not get to dribble as much as boys, therefore, that system in Iowa is just a bad system," they are not going to have the Federal bureaucrats telling them how to play basketball in Iowa. And they have a right, and this is a limited right, to speak up if they want to and, as local citizens, make their point.

Basically, I do not see that there are any constitutional considerations. However, I do give the distinguished Senator from Missouri, my very dear friend and colleague, an A-plus for innovativeness from a legal standpoint in raising these red-herring issues to the Constitution, and the issues on the other points.

I am sorry to take so much of the time of my friend from California, but I want to make the point that I do not think there is any constitutional problem here. It is very simple, very straightforward. All it does is give the local people some rights that they do not otherwise have and give them the right to stand up to the bureaucracy back here if they want to.

Mr. HAYAKAWA. I thank the Senator from Utah. I was not going to argue with him or Senator DANFORTH. I just wanted to keep myself out of that particular legalistic argument.

I am speaking, however, in behalf of the amendment of Senator HATCH and Senator GARN. I should like to say a few words in support of their position.

From listening to the arguments in favor of this new department, one would think that the ultimate purpose of its number of Federal laws pertaining to higher education rose 1,000 percent between 1964 and 1977.

With so much Federal participation in our education policies, we must balance it with at least equal or fair participation by our local school boards. After all, it is our States and localities who must learn to cope with our mandates, and it only makes sense that they have a say in how to run their businesses.

Although I honestly believe that our Federal laws and regulations are created with good intentions, sometimes excellent intentions, they somehow become stifling by the time they reach the levels where they are implemented. The rules and regulations that work well in Oxnard, Calif., might not fare so well in Brooklyn. And although the morals and ethics should remain constant as far as the content of the regulations, they are not always workable in given locations.

So I say we should support this amendment by my distinguished colleagues from Utah, and help retain some kind of autonomy for local education authorities.

The PRESIDING OFFICER. Who yields time? If neither side yields time, then the time runs equally.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. GARN. I yield back the remainder of our time.

Mr. RIBICOFF. Mr. President I move to lay the amendment on the table.

Mr. GARN. I ask for the yeas and nays.

The PRESIDING OFFICER. All time is yielded back. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
Danforth
Domenici
Durenberger
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Kennedy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Moynihan
Nunn
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stevenson
Stewart
Tsongas

NAYS—40

Armstrong
Baker
Boschwitz
Byrd,
  Harry F., Jr.
Cannon
Cochran
Cohen
DeConcini
Dole
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Morgan
Packwood
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—12

Bayh
Chafee
Gravel
Javits
Leahy
Long
Muskie
Nelson
Percy
Stafford
Weicker
Williams

So the motion to lay on the table Mr. HATCH's amendment No. 141, as modified, was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

UP AMENDMENT NO. 103

(Purpose: To provide substantive opportunity to local education authorities to participate in the Federal rulemaking process)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself and Mr. Garn, proposes an unprinted amendment numbered 103.

On page 120, after line 22, insert the following:

"(b) In promulgating such rules and regulations, the Secretary shall—

"(1) make all reasonable effort to alert the appropriate officials of the Local Educational Authorities as to the purpose and content of the proposed rule or regulation."

Mr. HATCH. Mr. President, this is the first paragraph of the prior amendment. I was disappointed that it did not pass.

This does not obligate the appropriate officials other than to notify the local education authorities as to the purpose and content of the proposed rule or regulation and take all reasonable efforts to do so. I think that is better than nothing, and I understand the distinguished managers of the bill will accept this amendment, and I am very appreciative of that.

Mr. RIBICOFF. Mr. President, this is a reasonable amendment, and as manager of the bill I will accept the amendment.

Mr. DANFORTH. Mr. President, I simply wish to make sure that we are not setting up some sort of hard-and-fast legal requirement which is going to get us into a judicial morass in determining what is and what is not reasonable notice. This is an intention which we are stating, as I understand it, for the Secretary of the Department to

Mr. HATCH. Mr. President, I yield back the remainder of my time. And I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 104

(Purpose: To eliminate the function of the Intergovernmental Advisory Council on Education relating to Federal direction over State and local educational policymaking and program implementation)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 104.

On page 91, strike out lines 5 through 9.

On page 91, line 10, strike out "(E)" and insert "(D)".

On page 91, line 21, strike out "(F)" and insert "(E)".

Mr. DOLE. Mr. President, the amendment the Senator from Kansas offers today is designed to safeguard the status of State and local participation in education.

There has been much written in opposition to this legislation, and one of the strongest arguments has been that it will, indeed, lead to a Federal education policy. Proponents of the legislation have attempted to refute this charge, but as long as language similar to subsection (D) remains in the bill, I do not see how their reputation can be convincing. If it is the true intent of this legislation to take the responsibility for education from the State and local authorities and transfer it to the Department of Education, then I believe my colleagues will not want to agree to my amendment. However, if we are giving more than lipservice to the idea that education should remain the responsibility of State and local organizations, then I believe my amendment should be approved.

To accept my amendment is simply to acknowledge that the Federal Government should not control education, should not direct educational policymaking, and should not be encouraged to develop yet another way to extend its presence into the lives of individual citizens. I urge the adoption of my amendment.

Mr. RIBICOFF. Mr. President, as manager of the bill, I find this amendment acceptable.

Mr. DANFORTH. Mr. President, this is essentially the same point that has been made by a number of Senators throughout the history of this bill. I think the point that Senator DOLE has made is well taken, and the amendment that he has proposed, that he has offered, is acceptable to the minority.

follow, but I hope that it will be something less than some sort of judicially reviewable requirement.

Mr. HATCH. The point is well made.

The PRESIDING OFFICER. Will the Senator from Utah have the kindness to suspend? The Senate is not in order.

Important legislative history may well be in the process at this point, and it is important that Senators understand what is being said.

The Senator may proceed.

Mr HATCH. I believe that the distinguished Senator from Missouri is correct, that the intent of this amendment is not to have this be a justiciable issue, but to have the Secretary in his discretion set up reasonable approaches to alert the appropriate officials of the local educational authorities as to the purpose and content of various rules and regulations issued by the Department, and I believe that this should not put an undue burden upon the Department, although I personally would prefer that the local authorities be fully consulted and have every approach made to them to have their input. This bill would require a certain amount of effort on the part of the Department of Education and the Secretary thereof to at least notify them.

Mr. DANFORTH. With that understanding the amendment is agreeable.

Mr. HATCH. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

It would do this by eliminating the function of the Intergovernmental Advisory Council on Education relating to Federal direction over State and local educational policymaking and program implementation. My amendment would strike subsection (D) from the bill. Subsection (D) gives to the Intergovernmental Advisory Council on Education the authority to "assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonprofit educational institutions."

Mr. President, it is language such as this which has me concerned about this legislation to create a separate Department of Education. Throughout our history, education has been recognized to be a primary concern of State and local authorities. I believe that this is the relationship which should continue, for once we shift the responsibility to the Federal Government we are usurping control from communities and States.

Should we allow this language to remain in the bill, I fear we are giving this advisory council the "go-ahead" signal to develop a Federal policy of education. I see no other way to interpret these words: "Insure effective direction over educational policymaking" than to assume that the intent gives to this council—and because it advises the Department, then to the Department itself—the mandate to create educational policy. I simply see no other way to read this passage, and I cannot go along with its intent.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back, and the question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 105

(Purpose: To establish an Assistant Secretary for Coordination with State and Local School Boards)

Mr. DOLE. Mr. President, I send another unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 105.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, between lines 4 and 5, insert the following:

"(F) an Assistant Secretary for Coordination with State and Local School Boards;".

On page 81 line 5, strike out "(F)" and insert "(G)".

On page 81, line 6, strike out "(G)" and insert "(H)".

On page 81, line 7, strike out "(H)" and insert "(I)".

On page 81, line 8, strike out "(I)" and insert "(J)".

On page 81, line 24, strike out "(G)" and insert "(H)".

On page 139, line 9, strike out "(6)" and insert "(7)".

Mr. DOLE. Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator. Mr. President, I ask unanimous consent that Barbara Anderson and Tony Arroyos be given the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I will just take about 1 minute, because I believe we will have a statement by the distinguished floor manager of the bill to satisfy any reservation the Senator from Kansas has.

The amendment the Senator from Kansas sent to the desk would create an assistant secretary for coordination with State and local school boards. The amendment is designed to create within the Department of Education a specific office for coordinating the activities of the Department with State and local authorities. I might add that it is the same concern the Senator expressed in the last amendment he offered, that this legislation could lead to domination by the Department of smaller educational authorities.

Through this amendment, I intend to give emphasis to the fact that all activities undertaken by the department should be coordinated with State and local authorities, for the smooth operation of programs at all three levels.

There is nothing in this legislation which should be construed as a congres-

it adds a neeed office to the Department of Education, and I hope that it will be approved.

It is the understanding of the Senator from Kansas that the bill itself may contain even stronger language or at least we can clarify any difference through a colloquy with the distinguished floor manager.

Mr. RIBICOFF. May I say this: I know the objective is a sound one. However, on page 79 of the bill we place this responsibility in the office of the Under Secretary. The bill states that there shall be an Under Secretary of Education, and the Under Secretary "shall have responsibility for the conduct of intergovernmental relations by the department."

The local school boards and the National Council of State Legislatures were very anxious to assure that this provision be incorporated into the bill, and I think we have given the intergovernmental responsibility greater dignity by giving the responsiblity to the Under Secretary. So I do not think it is necessary to create an Assistant Secretary because we have a stronger officer, in the Under Secretary, to take care of that function.

Mr. DOLE. The Senator from Kansas is certainly satisfied with an emphasis and that assurance as long as there is no disagreement on what the purpose and intent of that section is. And so the Senator from Kansas will withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right, and the amendment is withdrawn.

Are there further amendments?

in the Senate, and we look at the rising chorus of opposition in this first session of the 96th Congress, I think we can say very clearly that not enough care has been exercised because opposition is, in fact, increasing, and increasing very rapidy.

Let us proceed logically through the questions which first must be answered before an idea such as this should be finally considered and adopted.

The first question which comes to mind is whether there are problems, national in nature, in education. While there is little doubt that problems do exist, are they the same in New York City and Las Cruces, N. Mex., or any other part of the country? We should be asking what has caused these problems. How should they be met? Can they be met at the local or State level, as traditionally we have tried to do? Can they be met at the Federal level, no matter what we do? If so, should they be met at the Federal level?

It must be kept in mind that we are tampering with a system of education in this country which has been the responsibility of local and State authorities for almost 200 years. It has been fairly well established that there is a legitimate Federal role in education but it is a very limited role. This proposal for a Department of Education has raised the necessary and important question of just how broad should the Federal role be in education. Should it be limited to insuring that there is equality of opportunity or should it be broadened into a managerial role, as the bill before us would so broaden it?

sional directive for the Department of Education to reach into the sphere of local and State controls over education. While some persons might claim that my amendment is unnecessary, I would suggest that the entire thrust of the legislation tends toward increasing the Federal Government's role in education. Any emphasis we can add to counteract this force is important and necessary. I do not think it can be stated too strongly that we do not want the Federal Government to become the educational agency in our country. Educators from Kansas tell me that the strength of our system is that education is diversified, and individual creativity is encouraged and allowed to grow. I have concerns that a Federal department will stifle this type of imaginative growth, and I want to point out that should this legislation be approved, it is not to be considered as a mandate for Federal domination, but merely as an organizational realinement presumably to encourage a smoother working relationship among those offices concerned with education.

I believe that the department should give recognition to the work done by State and local school boards, and to the necessity for their continued strength. To have an assistant secretary within the department whose responsibility would be to coordinate policies and activities with non-Federal authorities would help recognize the continued importance of local authorities in the educational process.

Mr. President, I believe my amendment is direct and easily understood. I believe

Mr. SCHMITT. Mr. President, would the distinguished Senator from Missouri yield me 15 minutes on the bill for a statement?

Mr. DANFORTH. I yield 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. SCHMITT. Mr. President, once again we find the proposal for the creation of a Federal, Cabinet-level Department of Education before us. Quoting from the editorial of the Washington Post of February 11, 1970, entitled "The Education Department—Again," "Never underestimate the power of a bad idea to generate bad arguments." As one reads the report of the Committee on Governmental Affairs which accompanies this bill, one realizes how true this statement is.

The best arguments against the creation of a separate Department of Education come to mind in reading the report of the committee. I plan, at a later time, to discuss the points raised by the committee in support of the Department. At this time, however, let us review the questions which should be raised in a discussion about a new department of Government; questions, seems, which have not been adequately discussed.

The proposal to create a Cabinet-level Department of Education is such a sweeping proposal that we should proceed, and we have proceeded, with care, although I do not believe with enough care. If we look at the debate and the votes of the last session of this Congress

When we talk about problems in education we must talk about the expansion of the Federal role in education.

During the past 15 years, spending on education has increased dramatically. Money, therefore, cannot be the problem with education because as that expansion has occurred, at probably the maximum possible rate, problems in education have continued to worsen.

During the same period of the expansion of money, the quality of education has continually declined by almost any measure of national averages that one can find. Test scores, however, are but one measures of this decline. During the same period, Federal intervention into education has also increased dramatically. While the Federal Government provides only 8 percent of the financing for education in this country, the control exerted by the Federal Government is substantially greater.

Mr. President, as you and I well know, any marginally financed institution, when subject to 8 percent financial control, can be controlled 100 percent because no institution marginally financed can afford to have 8 percent or any percent of its necessary funds withheld.

More and more, teachers are spending additional time filling out forms, complying with Federal regulations, and answering questions posed by "professional educators" in Washington.

Again and again and again as I travel through the State of New Mexico, as I did during this last recess, teachers are coming up to me expressing their depression, their frustration, and their desire to get out of education. Why? Because of the lack of opportunity to teach. More and more teachers are spending additional time filling out the forms that prevent teaching opportunities.

This time is being taken away from those that need it the most—the students. This time is costing more and more money that should be spent on textbooks and salaries. It should be spent on new equipment and new ideas—those ideas that truly teach, those ideas that let the teachers be the purveyors of knowledge, and not just bookkeepers.

Mr. President, the problems in education have been caused by the Federal Government. It seems ironic that now we are arguing that the Federal Government can only solve the problems. For the sake of argument, however, let us proceed with the questions which the proponents should be asking about how problems in education can best be solved.

Now, if the proponents feel that the problems in our educational system can only be met on the Federal level, then the question must be: Can this be done through existing programs? Can it be accomplished through the existing mechanism? Can a reorganization of existing programs and/or the present system of delivery through the Office of Education provide for the needs in education?

If the answer to these questions is "no," then it must be asked, can we establish a new agency, somewhere below the level of department, which will deal with the needs of education?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A FEDERAL EDUCATION POLICY?

(By William Raspberry)

I suppose there may be some bureaucratic efficiencies that have resulted from the creation of the Department of Energy.

But bureaucratic efficiency was not the reason for creating the department. President Carter wanted to pull together the bits and pieces of energy programs scattered throughout the federal bureaucracy for one principal reason: so that the federal government could bring a unified approach to energy—so it could get a handle on energy policy.

Similarly, there might be some efficiencies that would result from the creation of a Department of Education, though I doubt it.

But don't kid yourself for one second that efficiency is the reason the backers of the idea are so fervent about it. The real reason is that pulling together the bits and pieces of education-linked programs presently scattered throughout the federal bureaucracy would give the federal government—and those who could reasonably expect to influence the new department—a handle on educational policy.

The difference between the two things is this: We were pretty well agreed that we needed a rational, consistent federal policy on energy. But we are by no means agreed that we want a federal policy on education, with Washington taking over more of the policy function now relegated to state and local officials.

We aren't agreed because we haven't even debated the question. We haven't understood that the creation of a Department of Education is in fact a policy question, not merely a matter of efficiency.

But visibility and prestige for what? For greater federal outlays? Is there any reason to suppose that creation of the department would in fact increase the amount of federal money available? And if it did, do they think for one moment that they could get more Washington money without more Washington standard-setting?

Maybe we ought to have national standards and educational policy. The point is, you cannot create a Department of Education first and decide the question of policy and standards later.

The creation of the department is a policy decision—even if it masquerades as reorganization for bureaucratic efficiency.

We ought to keep that in mind when the proposal is taken up again, probably later this month.

Mr. SCHMITT. Mr. President, if we need a better example of what happens when you establish a new department without a policy, then I would just direct attention to the Department of Energy. Has there ever been a more chaotic 2 years in any department or organization in this country? If so, I am unaware of it.

I have heard it said that such a department has no place to go but up. I am afraid that persons who feel that way are bound for disappointment, if we continue on the path so far established by the Department of Energy. I know that the distinguished present occupant of the Chair (Mr. MOYNIHAN) is concerned every time I try to correlate the Department of Energy with a proposed Department of Education. I would just say that in a year or two, if this proposal does in fact become law, we may be able to stand

Mr. President, it seems that only when we get to this point can we even consider a Department of Education. And unfortunately, even though the report of the committee says that that discussion has occurred, I am not persuaded that we have fully examined what could be done wtihin the existing structure, or with an agency of education independent of the administration, to the degree that that is possible, but nevertheless a separate agency.

The appeal of removing the E from HEW is a very great appeal, just as is the appeal of removing the H from HEW. As a matter of fact, it might be wise to consider not having a Department of Health, Education, and Welfare, but having three separate agencies. We will leave that for a separate debate. But if we have indeed reached this point, then we still have a step to go before we create a Federal Cabinet-level Department of Education. That step is the formulation of a national, Federal policy on education. And, Mr. President, if such a policy exists I am not aware of it, and I do not know of anyone else who is aware of it.

Executive departments are established to deal with issues that are of national concern, that can only be handled on the Federal level, and that have a Federal policy, the issue that was addressed so well by William Raspberry in his column "A Federal Education Policy?" which appeared in the Washington Post on January 26, 1979. I ask unanimous consent, Mr. President, that the column by Mr. Raspberry be printed in the Record at this point.

Do we want a federal policy on education? The impulse is to say: Why not? Standards (for high school graduation, for instance) vary so much from jursdiction to jusisdiction that a diploma cannot be taken at face value. Why not a single, federal standard?

Wouldn't it make sense to have consistent standards to determine what and how much children should be expected to learn at every grade level? After all, we already have nationally standarized tests to see what they've absorbed.

"That's easy enough for you noneducators to say," one [illegible]ernment official told me. "But if one of [illegible]ld it, I can predict what would happen.

"The first day, there would be applause. The second day, the unions and chief state school officials and the schol boards would attack.

"And the third day, the same people who thought it such a wonderful idea on Day One would begin saying, 'On second thought . . .'"

The scenario might not be far off. The teachers' unions—including members of the National Education Association, one of the major lobbyists for the proposed department—would quickly learn that national standards for what and how much should be taught naturally lead to national standards for determining who is qualified to teach it. All teachers' colleges are not created equal.

The state and county school authorities would attack because they are responsible for running some of these bad schools. The school boards would resent the federal usurpation of their policy-making role.

Okay, I know that the supporters of the proposed department don't anticipate federal standard-setting and policy-making. Their dubious rationale is that a president would pay more attention to education if its interests were articulated at the Cabinet level. Thus, a Department of Education would enhance the visibility and prestige of education within the federal establishment.

around and say, "I told you so."

Only after a Federal policy on education, however laudable is established should we consider the establishment of a Department of Education to implement that policy.

Mr. President, let us return now to the beginning. As I have stated, there are many problems existing in education today. There are needs and challenges to be met in providing the best education which we are capable of to all our people. The issue is whether the Federal Government should or even can meet these needs. This Senator feels that the success of education in the United States has been that it is decentralized and localized, that is, it is close to the people which it serves. The input of parents, students, teachers, and administrators on the local level has been most responsible for meeting the needs in particular areas, and creating in this country the greatest educational system, however great its deficiencies, that any large nation has ever seen. In recent years, the addition of Federal money has aided this effort but the addition of Federal regulations and Federal controls have also hampered this effort.

It is clear to this Senator that the problems in education, many of which were pointed out in the committee report, can best be met by local initiatives, with the assistance of the Federal Government, particularly where it is necessary to have Federal funds to provide for equality of opportunity in education.

But let me state parenthetically, Mr. President, that equality of opportunity does not necessarily mean equality of funding. It means that where equal educational opportunity must be provided, you use the funds necessary to provide that; and that does not necessarily mean equality of funding. In many cases, more funding will be required rather than less.

The Federal Government can only hamper any efforts made by those most expert in the needs in particular areas. The point is that the proponents have not established that increasing the Federal role in education will solve the problems or meet the needs of education much less that only Federal efforts can accomplish this.

If the Federal Government can be helpful in this effort to improve education, why are we not looking at improving present programs, reorganizing them, reorganizing our present structure—the Office of Education, increasing funds for education if any or all of these are necessary? Why do we insist in the Congress in creating new bureaucracies rather than making the present ones work or work better?

Mr. President, the Federal Government can assist local and State authorities in improving education. I strongly believe that we can improve the services which we provide. We can accomplish this by reorganizing the Office of Education, streamlining it, maybe making it into an independent agency, and reducing the paperwork which it creates. We can move in the direction of streamlining the grant programs which we have established and move toward the block grant approach rather than the categorical grant approach. This would re-provement, development, and oversight of a comprehensive Federal (emphasis added) policy for education."

This Senator has heard the proponents argue that this bill will not lead to a Federal takeover of education or to increased Federal regulation or to a national policy on education. Yet, in the body of the bill, it is specifically stated that a comprehensive Federal policy on education will be developed. That is of concern to this Senator. This issue is of concern to the people of New Mexico who are tired of Federal interference in almost every facet of their lives, most of all now education. This issue is of concern to a plurality of Americans who oppose the establishment of a Department of Education.

In last year's debate, I pointed out that the Gallup organization asked the question:

> In your opinion, should education be taken out of the present Department of HEW and made a separate department of the Federal Government, or not?

The response was 40 percent answering yes and 45 percent said no. Those parents with children in public schools were opposed by a margin of 49 to 40 percent. Those with children in private schools were opposed by 47 to 42 percent.

It is clear to this Senator that the people of this country do not want a Department of Education. It is clear that they fear Federal control, Federal interference, and Federal direction. It is ironic that a President who attempts to appeal going down, largely because of the Federal presence in education. There is no question about this in this Senator's mind, after working with the educators and teachers of New Mexico.

In addition, it is claimed in the report on this measure that there will be no new regulatory impact because of this bill. If there will not be, why do we need new supergrade positions attached to this agency?

I am afraid, Mr. President, every parent will regret our actions if they lose more and more control over the lives of their children to the Federal Government.

We are, in fact, bucking the general trend against big, impersonal Government.

Our casework that we perform for our constituents is almost entirely dealing with the impersonality of Government.

Local school boards are elected and parents have some control over their election. I am afraid my constituents are asking what control they will have over the Department of Education, another large group of unelected bureaucrats.

The feeling is in this Senator's mind, and I believe in the minds of many others, that national standards will come, that national tests will follow, national curriculum will soon follow behind.

The Federal control and the concept of big brother in education is very rapidly coming upon us.

It is diversity in education and local control of that diversity that has made duce paperwork, allow local and State authorities to more effectively use Federal funds, and reduce the expenditure of education money on bureaucracies. It is ironic that we are not discussing this approach. This bill which proponents argue will streamline and improve education does not even deal with these problems. What this bill proposes is to reshuffle the bureaucracies and at the same time the problems which presently exist.

Mr. President, let me now try to get to the real issue. I had suggested earlier that we should first discuss a Federal policy on education before we establish a department to implement it. This Senator does not feel that we need a national policy on education and strongly opposes this suggestion. At the same time, however, the argument for a Department of Education can only be made in terms of the need to implement a national policy. What this bill really does is put the cart before the horse. This bill establishes a Department of Education which would then both develop and implement a national education policy.

This bill creates a "Federal Interagency Committee on Education" which, to quote from the bill:

> Shall cooperate with Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—
>
> (4) the improvement, development, and oversight of a comprehensive Federal policy for education.

Mr. President, let me repeat that, since th sus the real issue in the bill: "The im- directly to the people would propose legislation which is opposed by a plurality of the Nation.

Mr. President, we do not need a Federal policy on education nor a Department of Education. We do need some reorganization of the Office of Education and the programs which we have on the Federal level.

We need a comprehensive review by the Congress of whether those programs are working, whether they are the best approach for Federal involvement, and whether we are getting our money's worth.

The guiding principle must be assistance to local and State authorities, parents, teachers, administrators, school board members, and most importantly, students, not management of them but assistance to them.

This Senator intends to work to improve education in this country. It is a task important to all our people. Education offers the opportunity for people to succeed and opens the doors for a bright future. I do intend to work against this proposal because I feel it will close doors for our citizens.

Finally, Mr. President, all the evidence that I am familiar with, after many years in the educational systems and many years as an observer and researcher on educational problems outside the context of the committees of the Congress, indicates to me that the Federal presence in education should be reduced and not increased.

There is no question that the efficiency of education, that is, the time a good teacher has to spend with a child, is this Nation's educational system second to none. It should be our goal to improve and increase the ability of our educational systems to tap diversity, rather than taking any step such as this one toward the homogenization of the educational system of this great country.

Mr. President, I yield back the remainder of my time and seek recognition to offer an amendment.

The PRESIDING OFFICER. The Senator may offer his amendment.

AMENDMENT NO. 152

(Purpose: To delete the transfer of agencies and functions from the Department of Defense to the Department)

Mr. SCHMITT. Mr. President, I call up amendment No. 152 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 152.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 81, line 25, strike out "section 203(11)" and insert "section 203(10)".
>
> On page 82, strike out lines 3 through 9.
>
> On page 82, line 10, strike out "(f)" and insert "(e)".
>
> On page 82, line 16, strike out "(g)" and insert "(f)".
>
> On page 83, strike out lines 23 and 24.
>
> On page 84, line 1, strike out "(9)" and insert "(8)"

On page 84, line 4, strike out "(10)" and insert "(9)".

On page 84, line 5, strike out "(11)" and insert "(10)".

On page 84, line 10, strike out "(12)" and insert "(11)".

On page 84, line 13, strike out "(13)" and insert "(12)".

On page 84, line 17, strike out "(14)" and insert "(13)".

On page 87, strike out lines 7 through 20.

On page 87, line 22, strike out "Sec. 210." and insert "Sec. 209.".

On page 88, line 13, strike out "section 303" and insert "section 302".

On page 88, line 19, strike out "Sec. 211." and insert "Sec. 210.".

On page 89, line 2, strike out "Sec. 212." and insert "Sec. 211.".

On page 90, line 13, strike out "Sec. 213." and insert "Sec. 212.".

On page 95, line 22, strike out "Sec. 214." and insert "Sec. 213.".

On page 105, beginning with line 12, strike out through line 21 on page 106.

On page 106, line 24, strike out "Sec. 303." and insert "Sec. 302.".

On page 108, line 3, strike out "Sec. 304." and insert "Sec. 303.".

On page 108, line 12, strike out "Sec. 305." and insert "Sec. 304.".

On page 108, line 18, strike out "Sec. 306." and insert "Sec. 305.".

On page 109, line 3, strike out "Sec. 307." and insert "Sec. 306.".

On page 109, line 10, strike out "Sec. 308." and insert "Sec. 307.".

On page 110, line 20, strike out "section 210" and insert "section 209".

On page 111, lines 14 and 15, strike out "section 210" and insert "section 209".

On page 113, strike out lines 13 through 17.

these schools. These children have very special needs and concerns related to their unique and changing social environment associated with the military careers of their parents. The Department of Defense has successfully administered these schools for 30 years. The supporters of the proposed Department of Education insist that these schools be transferred under the jurisdiction of the new Department, possibly because otherwise it would not have the size of a department in terms of employees.

First, Mr. President, the mission of these overseas schools is to serve the military communities and, literally, no one else except for their broader responsibility to serve the Nation. The schools and those communities are intertwined in ways that are unlike schools in the States.

The schools must depend upon the military for many service functions—personnel, travel, supplies, maintenance, food service, bus service, and so forth. The costs of duplicating those services for the schools alone would be prohibitive, and it is foolish to believe that the bureaucracies of two Cabinet agencies will cooperate to prevent duplication to the degree it is permitted now.

There is very little indication in our experience to show that two Departments will work very well together in such a diverse environment as the overseas school system.

Teaching personnel depend upon DOD for food and supplies through access to

These schools are probably unique in our educational system in that there is a crying need for stability.

The reason for this is the transfer of military personnel, after a 2- or 3- or sometimes 4-year period, from one base to another and the need within that environment, somewhat destabilizing in itself, to have stability in the education system of the children of these military personnel.

The normal tour of duty at a given military base for overseas personnel is about 3 years. That results in children changing schools every 3 years. That change may be to another overseas base or to a stateside school.

In either event, the importance of a consistency in curriculum and educational program among the overseas schools is obvious so that the child's educational experience can proceed with a minimum of adjustment problems.

This has been, clearly, the goal, and it is a goal which has been met, to a large part, by the Department of Defense over the last several decades.

Currently the DOD schools' personnel are staff members in the Department of Defense, have full security clearances, and receive advance information on troop transfers so that plans may be made for school operation when the children arrive at a new base.

Clearly, this transfer of the overseas school responsibility to a new Department of Education particularly with the

On page 120, strike out lines 1 through 3.

On page 124, line 8, strike out "(1)".

On page 124, strike out lines 17 through 22.

On page 139, strike out lines 20 and 21.

On page 139, line 22, strike out "(153)" and insert "(152)".

On page 72, in the table of contents, strike out the item relating to section 209 and renumber the items relating to sections 210 through 214 as the items relating to sections 209 through 213, respectively.

On page 73, in the table of contents, strike out the item relating to section 302 and renumber the items relating to sections 303 through 308 as the items relating to sections 303 through 307, respectively.

Mr. SCHMITT. Mr. President, if I may call the attention of my colleagues to the report on S. 210, and in particular the lack of concern in that report, almost the lack of comment, of the transfer of the Department of Defense overseas school system to this new department, it is almost unbelievable that the report would take so little note of that transfer when the majority of the employees to come under the new Department will, in fact, come from that overseas school system.

More specifically, 9,658 employees out of 15,416 will be so transferred from the Department of Defense school system.

This is a strong indication of the direction this new Department will take in this transfer of the defense schools. This amendment I have called up is directed to this question and would delete such transfer from the bill.

The Defense Department operates 267 overseas schools for the children of military personnel. At the present time, there are about 135,000 students enrolled in base exchanges and, in many locations, for housing. Transfer will cut that access and throw teaching staff on the economy in most areas. Given dollar exchange rate problem, that will be disastrous for many of the individuals, if not most, related to this teaching establishment in the overseas schools.

Schools are used for other base activities. With a transfer, that use will evaporate, or at least be subject to another layer of bureaucracy. The bureaucratic problems of paying for fuel, lights, and maintenance will be overwhelming, again, if our experience with interdepartmental coordination has anything to teach us.

More than 99 percent of new Department's energies and attention will be focused on the grants process. That is largely the function now of the Department of HEW from which the other major portions of the new Department would be derived. The problems and personnel required to run a school system of 150,000 children are simply incompatible with this other completely unrelated bureaucratic process of grant approval.

Finally, all the Department of Defense needs is another agency helping out on its bases which are critical to our national defense structure.

Mr. President, in addition, there is great concern among many individuals, who may even favor establishment of a Department of Education but are concerned about the question of the overseas schools, that this new Department of Education will seek to use these schools for experimentation. chaos that will accompany this transfer, would interfere in the educational planning and the related national security problems that come with them.

Under the "split agency" arrangement, those operating the schools might not be apprised in sufficient time to plan for school operation. Transfer to a Department of Education would require security clearances for those personnel involved in the budgetary planning and various other functions related to the operation of the schools.

Mr. President, none of these bureaucratic requirements is necessarily insurmountable in itself. I only list them as a very partial and incomplete list of the kinds of difficulties that the two departments would have in working together.

Additionally, Mr. President, under operation by a Department of Education, cost efficiency factors might dictate closing of a school even though the military interests might be to maintain a school as an evidence of a national commitment to an area or as a means of maintaining a relatively high level of troop morale through the presence of the family. Specific examples at the moment are at Guantanamo Bay and Bahrain on the Persian Gulf.

Budget cutters in a Department of Education might want to close the schools so that the budget could be reduced even though the total national interest might suggest another course of action. Presumably, this could be worked out, but it does represent another area of interface that will be extraordinarily difficult.

I do not expect, by these remarks, that the budget of the Department of Education ever will be reduced in any significant amount once it is created.

Since the DOD schools would be the only agency operating K-12 schools that would be in the Department of Education, it would be essentially an appendage subservient to the whims of the Secretary and planners of the agency. This could constitute a serious problem of uncertainty if there should be as many Secretaries of Education as there have been Commissioners of Education in the past 16 years—8 appointed and 4 additional as acting. The importance of continued attention to quality education for military dependents suggests that the entity should be in an organization with relative continuity of leadership.

Currently, in the transfer of personnel, when children have a need for a special type of educational program, consideration is given to that particular need of the child in determining the next duty location. A concrete example may be found in the transfer procedures for Air Force personnel. One can only speculate whether or not this cooperation would be maintained under the proposed transfer. If it were not, the Department of Education could be subjected to continuing complaints about program inadequacies.

Perhaps the greatest concern, although there are many who oppose on the outside the transfer of the overseas schools into the proposed Department of

Teacher relocation. Teachers are now able to borrow from the base portermaster a number of personal household furnishings such as refrigerators, stoves and cooking utensils until those items are shipped to them from the States. This loan of goods may last up to 90 days.

Base exchange and commissaries. Teachers have access to the base exchange and commissary for the purchase of groceries, clothing, and other personal items. In many countries, these are the only places where U.S. goods are available except on the black market. BX and commissary use is carefully controlled by the military.

Officers' clubs and mess halls. In many instances, the officers' clubs and mess halls are the only facilities on or near a base that provides three hot meals a day. For single teachers on a base, these facilities are essential.

Health care. The military health facilities are the best available to teachers overseas. Teachers are entitled to emergency care and depend upon the base for health and medical supplies. In many places, health care is simply not available offbase.

Personnel services. The military personnel offices process all teachers' personnel papers, including passports, shipping arrangements, and transportation.

Facilities. The construction of new buildings or additions to existing facilities is now worked out with the civil engineer on the military base. Without access to that military expertise, the schools since the vast majority of students are bused to school.

Mail. Currently teachers have access to military mail systems which involve the use of APO and FPO numbers. This reduces cost for mailing and provides for expedited delivery in service.

Teacher transportation. Teachers are able to use military flights on space-available basis for transportation to regional curriculum development meetings and central office administrators are able to use these military flights in order to maintain contact and liaison with the schools in that area. Teachers are also able to use space-available flights for recreational leave and other purposes.

Other facilities and services. Other facilities and services offered by the military whose availability might be jeopardized include gasoline and automotive services, dry cleaning and laundry facilities, recreational facilities, and the provision of drivers' license and automobile tags. In most areas, the military recreation facilities are the only ones which exist within a reasonable distance of the base for use by teachers and their families.

Mr. President, I have not included this list for the sole purpose of saying that those arrangements cannot conceivably be made. In theory, they can. But, again, I remind Senators that we are talking about two major bureaucratic elements of the U.S. Government working out in extreme detail the kinds of relationships between people that now exist very ef-

Education, is that those schools will suffer because of a divided interest in the agency.

Various concerns have been raised about the new Department being an operating agency, but perhaps the most critical concern would be the divided attention of the top leadership as attention—or what would more likely be neglect—would be required for the effective operation of the DOD schools and evolving functions of the Department with reference to the ongoing elementary, secondary, and post-secondary institutions located in the United States.

Mr. President, I think it would be useful, for the purpose of the record, to have somewhat more detail with respect to the basic relationship that now exists between the Department of Defense schools and military support systems within specific bases and within the Department of Defense as a whole.

Currently, the Department of Defense schools are dependent on the military for a wide variety of support services. The transfer of the schools to a new Department of Education would unquestionably endanger the availability of these services.

Housing. In many cases, on-base housing is provided for teaching personnel, particularly in areas where bases are isolated such as in Turkey or where off-base housing is not available to American staff such as in Iceland. Where housing is available off base, teachers have access to the Housing Referral Service which utilizes U.S. standards of housing in determining availability of off-base facilities.

schools would not have the ability to make those arrangements onsite. Custodial contracts are arranged for by the base commanding officer for the entire base. The cleaning of the school is only a small part of that contract. In many instances, it would be economically impossible to arrange custodial services for a single facility such as the schools.

Repair and maintenance. The repair and maintenance of the school facilities is handled through the base civil engineer. This includes arrangements for emergency repairs in instances where water pipes freeze, furnaces explode, windows are broken, et cetera. It would be economically impossible for each school to have the personnel and equipment to handle its own repair and maintenance.

Supplies. Schools are entirely dependent upon defense shipping and supply lines for books, equipment, and all other school supplies. Schools receive supplies directly on a drop shipping basis from the military warehouse in Richmond. The duplication of this system would be the most costly and difficult logistical support service.

Bus transportation. In no instance do the schools operate their own buses. Transportation is contracted with the military department at that base with the commander making arrangements with the school superintendent or principal. Transportation is worked out between school authorities and the base transportation officer. Because the schools are able to use military buses already at those facilities, costs are kept to a minimum. Transportation is a very important element of the overseas

ficiently within the Department of Defense. I do not believe that in many of the cases I have just enumerated, such arrangements can be worked out easily or, at the very least, can be worked out efficiently.

Mr. President, there have been a number of hearings on this issue, not only in the Senate but also in the other body; and I think that some of the comments that have come out of those hearings are important for consideration here today.

For example, in a hearing before the Subcommittee on Labor Standards and the Subcommittee on Elementary and Secondary Vocational Education of the House Committee on Education and Labor, on Februarry 1, 1978, in dealing with the Defense Dependents' Education Act of 1978, Dr. Thomas D. Minter, Deputy Commissioner, Bureau of Elementary and Secondary Education, was questioned by Representative JOHN ERLENBORN the ranking minority member of the Subcommittee on Labor Standards. In their discussion, the following took place:

> Mr. ERLENBORN. How do you personally feel about the Office of Education or HEW being in the business of operating schools?
>
> Mr. MINTER. Well, I don't believe that we should be in the business of operating schools, certainly. I don't think that it is our function and I don't think that it is the intent of Congress.

Mr. President, obviously, that is the intent of this bill that is before the Senate at this time. It is not only the intent; it will be the law.

Similarly at a hearing before the Subcommittee on Labor of the House Committee on Education and Labor, on April 24 and 25, 1974, dealing with H.R. 3157, the National Overseas Education Act of 1973, Dr. Anthony Cardinale, Director of Dependents Education, Office of the Deputy Assistant Secretary of Defense for Education, said as follows:

> Since all schools are located on military installations or are on leased facilities under control of the local military commander, operation of these schools by an outside agency could possibly create more problems than would be solved.
>
> The Department of Defense has a moral commitment to its members, both military and civilian, to insure that the minor school-age dependents continue to receive a quality education.
>
> Personnel residing on military installations or stationed overseas look to the Department of Defense to provide all required support, including education. Thus, we do not consider it feasible or desirable to remove this important responsibility from the Department of Defense.
>
> Through the many resources already available within the Department of Defense, such as transportation, communication, logistical and administrative support channels, the educational needs of the dependents are being met.
>
> The logistical support system necessary to maintain the worldwide dependents education program is now provided by the base commander through the military departments. To remove the budget-making process and budget decisions from the military departments and the Department of Defense places both in an inoperative position.
>
> In summary, we have a good educational system. The current management review, tic support of bases and personnel. A Department Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education. The costs would rise because of the need to duplicate such a support system. Again, the argument against the operation of any schools by a Department of Education should, alone, be decisive.

And I might add that Rufus E. Miles, author of the preceding remarks, is a major authority on the Department of Education, and he supports the Department of Education but clearly does not support, and with good cogent argument, the transfer of the overseas schools to that Department.

This morning I received two "Dear Colleagues" concerning this amendment. The first was signed by my colleagues Senators JACKSON, NUNN, and LEVIN. In the letter it is asserted that the Overseas PAT is against this amendment. Enclosed with the "Dear Colleague" was a letter from the Overseas Education Association, Inc., an affiliate of the National Education Association—the principal support of S. 210. Quoting from the OEA letter, signed by its President Hal Mosher:

> Our Association holds exclusive national recognition for the 7,000 teachers in the Department of Defense Dependents Schools (DODDS) system. We believe the members of the armed services stationed overseas deserve the best possible educational program for their children, and this can be achieved only if education is recognized as the highest priority. The teachers in our system

Teachers is opposed to the transfer of the DODDS system to the proposed Department of Education. Quoting from a letter I received from the AFT last year with regard to this issue:

> As you know from previous correspondence, the AFT strongly opposes S. 991 and urges all Members of the Senate to vote against it.

The original version of S. 210 was S. 991.

That opinion has recently been supported again by Mr. Shanker, just in the last few days.

The opponents of this amendment have stated as has been stated in the OEA letter, that the European Parent Teacher Association (PTA) is against this amendment and for the transfer of the DODDS system to the Department of Education. This is not an accurate statement. At this time, I wish to quote from a letter from the Overseas Federation of Teachers to the AFT and from a story which appeared in the "Stars and Stripes" on April 16:

> You will be pleased to know about the action taken at the latest European PTSA convention held in Berchtesgaden, Germany from 9–12 April 1979. At this convention the delegates voted on the following statement, "The delegates of this convention expressed the following vote in favor of the Dependents' Schools becoming a part of the DoEd should it be established." For—51, Against—67, Abstain—5.

This shows that the parents, teachers and students overseas are not enamored with the idea of linking the DoDDS schools with a new DoEd as Grace Baisinger, National

> which is based on solid sources, will make the system even more effective and responsive to those it serves.
>
> Therefore, it does not appear appropriate at this time to make any additional substantive changes which would result in disruption or the loss of present continuity

Similarly, Mr. President, in the hearing on the H.R. 3157, Representative John Dent, chairman of the Subcommittee on Labor Standards said as follows:

> An overseas school system would not, in my opinion, ever be able to be divorced from the Department of Defense as such but it would be administered as a school system and not, as is now the case, as a small appendage of a defense operation.

Carul Kimmel, president of the National Congress of the PTA, said in a letter, October 8, 1975, to Representative Albert H. Quie, former ranking minority member of the House Committee on Education and Labor:

> With control in a central office in Washington, military commanders no longer will have any responsibility for the schools and the schools, as a result, will be denied vital logistical support from the military. Such services, for example, transportation of students would have to be contracted out.
>
> We seriously question whether parents of the children attending Overseas Dependents Schools can be meaningfully involved in the decision-making process when control and total responsibility for their schools are placed in a central office in Washington, D.C.

Finally, Rufus E. Miles, Jr., in his article, "A Cabinet Department of Education: Analysis and Proposal," American Council on Education, 1976, said as follows:

> The Department of Defense has a system in being that is operated overseas where the logistic support is adjunct to its other logis-

> strongly believe that education does not receive the priority consideration within the Department of Defense that it would in the Department of Education. Our view is obviously shared by the military parents inasmuch as the European Parent-Teacher-Student Association enthusiastically supports the transfer of DODDS into the Department of Education. Our informal polls also indicate that most of the school administrators support this transfer. The parents and professional educators involved in the system are almost unanimous in their support of the transfer of DODDS into the Department of Education.

Mr. President, this statement misrepresents the facts. OEA does not hold "exclusive national recognition" for the Department of Defense Dependents Schools (DODDS) system. The Overseas Federation of Teachers, an affiliate of the American Federation of Teachers (AFT) is also recognized as a bargaining agent for many teachers in the DODDS system. I quote from a letter dated August 3, 1976 from Earl T. Hart, Area Administrator for the U.S. Department of Labor to Albert Shanker, president of the AFT:

> This is in response to your letter of June 26, 1976, to Madeline Jackson, FLMR Supervisor, inquiring as to the status of the Overseas Federation of Teachers bargaining unit.
>
> Consistent with what you indicated that the Overseas Education Association representative stated at the Congressional hearing, the reorganization with the Department of Defense which became effective on July 1, 1976, combined the overseas teachers employed by the Army, Navy and Air Force into one entity designated the Department of Defense office of Dependents Schools. The bargaining unit represented by the Overseas Federation of Teachers remains intact.

Further the Overseas Federation of

> PTS President, is saying they are. As a matter of fact it turns out that the whole issue of European PTSA support of DoDDS inclusion in DoEd was a railroaded action at the 1978 European PTSA convention. I will be preparing some materials for your information on this and will send them to you as soon as they are compiled. In the meantime a copy of a newspaper article which appeared in the Stars and Stripes is enclosed for your information and use.

Mr. President, I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLL SHOWS MANY WANT SCHOOLS KEPT UNDER DOD

(By Jim Coles III)

> BERCHTESGADEN, Germany (S&S).—The European PTSA conference ended on a confused note last week after a straw poll of the delegations showed many members favor keeping the overseas schools within the Department of Defense rather than the proposed Department of Education.
>
> The vote came late on the agenda, at a time when many of the delegates had already started home. European PTSA President, Ed Schulze, said the vote indicated little except a concerted effort by "vested interests" to retain the status quo, and until there is a clear sense of convention there will be no change in European PTSA's position of support for the proposed department.
>
> The national PTA president, Grace Balsinger, said the vote would have no influence on the American organization's push for the creation of the new Cabinet-level department. Dr. Anthony Cardinale, DODDS director was present when the poll took place.
>
> The vote was 67 against inclusion of DODDS schools in the department, to 51 for. Proxy votes were used by activists on both sides of the issue.

Ernie Lehman, Overseas Federation of Teachers president, said the vote "clearly shows the majority of parents and teachers do not favor moving under a Department of Education." The OFT has opposed a Department of Education.

The conference officially ended Thursday night with a formal banquet, the presentation of the memberships in European PTSA and the presentation of a lifetime membership in National PTA to Schulze.

Major issues the delegates considered included alcohol and drug use by students, creation of the Department of Education, DODDS reorganization, funding and staffing of the overseas schools and child abuse.

Mr. SCHMITT. Mr. President, obviously the "parents and professional educators involved in the system are almost unanimous in their support of the transfer of DODDS into the Department of Education" is not an accurate statement, as [illegible] in that article. Yet, this argument was advanced by the Overseas Education Association.

The second letter from Senator RIBICOFF also advances similar arguments. In addition it states that "the schools will get more attention and oversight in the Department of Education." This is precisely what is not needed. The increased attention will inevitably lead to increased control, the last thing the students in this school system need.

This transfer being proposed is tampering with the education of about 135,000 children. This is a serious proposal. It must be considered carefully and with accurate and complete facts and not with misrepresentations as those in the letter from the Overseas Education Association.

rank as our 12th largest elementary and secondary school system.

The DOD schools exist for a specific purpose—to provide education for dependents of our military personnel. They are one of a very few public school systems operated by the Federal Government.

When the committee studied the creation of the Department of Education, we asked ourselves which agency of the Federal Government would be in the best position to provide the highest quality education to the 135,000 students in the DOD schools.

Looking objectively at the merits of the issue, I think there is an overwhelming case to be made for the transfer.

We should not expect the Defense Department to have the expertise of running a public education system. Obviously, the purpose of the DOD schools is more in line with the mission of the Department of Education than of Defense.

These schools are not integrally related to the maintenance of the national defense posture. The schools do not prepare its students for any purposes related to the military. They are regular American elementary and secondary schools.

The schools are not a priority at the Defense Department. How could a $361 million public school system receive the professional attention it needs in a $25 billion department?

The expertise in the field of education will be in the Department of Education.

was presented last week to the House Government Operations Committee by Col. Mike Austin, vice president of the European Congress of American Parents, Teachers, and Students, in supporting the transfer of the school system to the Department of Education. I ask unanimous consent that the statement be printed in the RECORD, and I urge my colleagues to read the statement carefully.

Mr. President, the legislation before us today provides for a 3-year phase-in period, so that the schools can be transferred with little or no disruption. The schools will become a high priority in the structure of the Department. The bill creates an Office of Education for Overseas Dependents, headed by an administrator. The administrator would report to the Secretary and would be an executive level V. This stands in contrast to the present situation, where the Office of Dependents Education in DOD is submerged more than eight layers deep in the bureaucracy, and where the Director of the schools is only a GS-16, protected by civil service. The level of attention and accountability in the Department of Education would be dramatically increased.

S. 210 also requires the Secretary of Education, in the 3-year phase-in period, to make recommendations for increasing parent, teachers, student, and military participation in the schools' operation and administration. The bill also makes technical amendments to the Defense Dependents Education Act of 1978 to increase parent participation, and conform

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Mr. President, most seriously, the existence of a school system that is the equivalent of the 11th largest school system in this country in the Department of Education gives a ready-made access of the experimenters for Federal education to a school system in which they can experiment.

I will be extraordinarily surprised, if such a Department is created, that those experimenters will not, in fact, try to experiment.

That is what we do not need. We need to have the diversity of our local education system preserved and enhanced, not homogenized, as we approach 1984.

Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I oppose this amendment.

Mr. President, the Governmental Affairs Committee gave serious and thorough consideration to the transfer of the Defense Department's overseas Dependents Schools to the new Department of Education.

This transfer is supported by nearly all parties involved, including the school administrators, the Overseas Education Association (which holds exclusive recognition for DOD teachers), the European Congress of American Parents, Teachers, and Students, and the Department of Defense.

If the DOD school system were within the continental United States, it would

The many and varied educational programs in the new Department should be made available for the improvement of these schools. Programs for gifted and talented children, academic facilities improvement, and educational research—to name a few—are all badly needed functions which will benefit the DOD schools in the new department.

I believe locating the dependents schools in the new Department of Education will result in a wide range of benefits for the schools. Being administered in the Education Department, the schools will be kept in touch with the latest education trends and technologies. The Secretary of Education will be the most knowledgeable Federal official in the field. He or she will have broad access to a wide range of experts and materials which could help with problems in the DOD schools.

The transfer will provide continuity for students alternating from DOD schools and continental U.S. public schools. The average term of duty for members of the military overseas is usually 3 years or less. So there is a great amount of movement for students between the various schools systems. Students will learn more if they can simply pick up where they left off after leaving one system for the other.

Mr. President, the dependents schools have had a troubled history. Problems in parent involvement, variations in educational programs, supply of educational materials, and safety of facilities continue to persist. Perhaps one of the most eloquent statements of these problems

the Act to the transfer of the schools to the Department of Education.

Mr. President, I would hope the Senate would concur with the unanimous recommendation of the Governmental Affairs Committee that the DOD Dependents Schools be transferred to the Department of Education.

In addition, Senators Jackson, Levin, and Nunn, who are members of the Military Armed Services Committee, have strongly advocated the transfer. These Senators, who are deeply involved with matters affecting all phases of the armed services, have come to believe strongly that this is essential for the education of the children of military personnel.

Mr. President, I ask unanimous consent that the "Dear Colleague" letter signed by Senators Jackson, Nunn, and Levin, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on Armed Services,
Washington, D.C., April 25, 1979.

Dear Colleague: We would like to advise you of our opposition to the Schmitt Amendment (No. 152) to the Department of Education Organization Act of 1978 (S. 210), which would delete the transfer of the Department of Defense Overseas Dependents Schools to the new Department. We do this from our unique position of being cosponsors of S. 210, members of the Governmental Affairs Committee and members of the Services Committee.

This transfer is supported by the Governmental Affairs Committee, the Department of Defense, the Overseas Education Association, and the European Congress of Parents, Teachers and Students. In simple terms, the proposed transfer is endorsed by all the parties involved. Attached are letters from the European PTSA and the Overseas Education Association in support of this transfer.

There are several reasons why we feel that this transfer is a good one. These schools are regular American public elementary and secondary schools serving the dependents of military personnel who are stationed abroad. Their purpose is to educate American children and is not integrally involved with the mission of the Department of Defense. The DOD Overseas Schools are administered by a GS 16 in the Department of Defense who, despite his personal dedication and excellence, is not in a position in the massive Department of Defense to gain attention for the needs of these schools. Under the proposal in S. 210, the Overseas Defense Schools will be administered by an Executive Level 5 official in the new Department of Education who will report directly to the Secretary. This high-level official will provide these schools with more attention and oversight than they have received in their 30 year history. We believe that such attention and accountability will improve the quality of the schools and will make a positive difference in the minimum educational standards, acquisition of pertinent educational supplies and the availability of knowledge into new trends and methods of teaching.

Inclusion in the Department of Education will also facilitate the transition of these students, who are temporarily overseas and away from our nation, into our public school systems. Since military families are subject to frequent moves, we should strive to provide a sense of continuity in education for these students. The Department of Education would be more attuned to the trends in American public education than the Department of Defense and could provide valuable these schools, by necessity, must be administered by a Federal department, the Department of Education is the one to do it.

We believe that these are valid and cogent reasons for the transfer of these schools to the new Department of Education. We hope you will join us in opposing the Schmitt Amendment to delete this transfer.

Sincerely,

HENRY JACKSON.
SAM NUNN.
CARL LEVIN.

THE NATIONAL PTA,
Chicago, Ill., April 25, 1979.

Hon. SAM NUNN,
3241 Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR NUNN: The National Congress of Parents and Teachers and the European Congress of American Parents, Teachers and Students strongly support your efforts to keep S. 210, the Department of Education bill intact.

Recently Commander Mike Austin, Legislative Chairperson of the European PTSA, flew from Brussels to testify in front of a subcommittee of the House Government Operations Committee. In his testimony he urged that the DoD schools for children of military personnel be transferred to the Department of Education. In his statement he said, "We want to come in from the cold. We see our closed, limited military system drifting farther away from the main stream of the American educational process and the continued inability of our current organizational structure to make the requisite adjustments. Some very exciting things are happening in American education which as taxpayers we provide tax dollars to support. We want to make sure that our children are full-fledged participants. The new Department of Education is certainly no panacea to their children, and this can be achieved only if education is recognized as the highest priority. The teachers in our system strongly believe that education does not receive the priority consideration within the Department of Defense that it would in the Department of Education. Our view is obviously shared by the military parents inasmuch as the European Parent-Teacher-Student Association enthusiastically supports the transfer of DODDS into the Department of Education. Our informal polls also indicate that most of the school administrators support this transfer. The parents and professional educators involved in the system are almost unanimous in their support of the transfer of DODDS into the Department of Education.

A question may be raised regarding logistical support from DOD for our schools if under a Department of Education. For three years DODDS has been separate from direct control by the military departments. Logistical support has been provided through interservice support agreements. The Director of DODDS has concurred that support has been equal if not superior to past direct support arrangements. Therefore, any potential logistical support problems are already being resolved and should not be considered a negative factor in considering this transfer.

It is our sincere hope that the Senate will enact S. 210, with the Overseas Dependents Schools included, and that all efforts to delete us from this legislation will be resisted. A Department of Education is needed and we want to be part of it.

Sincerely,

HAL MOSHER, *President.*

Mr. RIBICOFF. Mr. President, I have no further statement to make. I am willing to yield back the remainder of my time.

Mr. SCHMITT. I am ready to yield

assistance to the school administrators in sensing, adjusting and responding to these educational trends. The Department of Education could also bring to the overseas schools the vast educational resources which are available in our public schools, but, to date, have not been available to our overseas military dependents.

There would be no disruption in the operation of these schools during the transition. S. 210 provides for a 3 year "phase-in" period, during which time the Secretary of Education is required to work closely with the Secretary of Defense to develop a comprehensive plan for effecting the transfer. Also, Section 505 (a) of the bill insures that the agreements between the schools' present administration and the Armed Forces in existence at the time the Department is established shall remain in effect until new agreements are negotiated as part of the planned transfer.

The arguments of the opponents of this transfer that the Department of Education should not be in the business of administering a school system is not defensible in this case. The Committee formulated very precise language in the bill to ensure that this reorganization in no way increases the power of the Federal government over our educational process, and we wholeheartedly support this language. The reality of the Overseas Dependents Schools is, however, that they are now and will continue to be administered by a Federal department. The question we should be addressing is which Federal department is the most competent and best qualified to ensure that these American school children receive a sound and quality education. It would be a difficult case to argue that the Department of Defense would ever come close to giving these students the priority, attention and focus which they will receive in the Department of Education with its level V administrator who reports directly to the Secretary. Since immediately curing all of our ills but we believe that the prognosis for survival there is much better than under the Department of Defense system."

While it is true that the geographic dispersion of the overseas schools creates unique logistical and support service problems for the schools, we firmly believe that these and other aspects of their operation are best dealt with in the context of the primary mission of these schools, which is the education of overseas military dependents. Clearly the mission of the Department of Education is most compatible with this task.

The National PTA and the European PTSA thank you for your concern and efforts in this matter. We are determined to assure that the DoD schools remain part of the Department of Education legislation.

Sincerely,

Grace Baisinger, *President*.

Overseas Education Association, Inc.,
Washington, D.C., April 24, 1979.

Hon. Henry M. Jackson,
U.S. Senate, 137 Russell Building, Washington, D.C.

Hon. Sam Nunn,
U.S. Senate, 110 Russell Building, Washington, D.C.

Dear Senators Jackson and Nunn: We appreciate your efforts to establish a separate Department of Education, which includes our schools, the Department of Defense Dependents Schools. It has come to our attention that Senator Schmitt is planning to introduce an amendment to S. 210 to eliminate the Department of Defense Dependents School (DODDS) from the bill. We oppose such an amendment.

Our Association holds exclusive national recognition for the 7,000 teachers in the Department of Defense Dependents Schools (DODDS) system. We believe the members of the armed services stationed overseas deserve the best possible educational program for back the remainder of my time and, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Baucus). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Maine (Mr. Muskie), the Senator from Wisconsin (Mr. Nelson), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. Williams), is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of death in the family.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from New York (Mr. Javits), the Senator from Illinois (Mr. Percy), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Chafee) is absent on official business.

I further announce that the Senator from Vermont (Mr. Stafford) is absent due to illness.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 28, nays 58, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—28

Boren
Byrd,
 Harry F., Jr.
Cohen
Dole
Domenici
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Moynihan
Randolph
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Warner

NAYS—58

Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Ford
Glenn
Hart
Hatfield
Heinz
Hollings
Huddleston
Jackson
Johnston
Kennedy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Young
Zorinsky

NOT VOTING—14

Armstrong
Bayh
Chafee
Gravel
Inouye
Javits
Leahy
Long
Muskie
Nelson
Percy
Stafford
Weicker
Williams

So Mr. SCHMITT's amendment (No. 152) was rejected.

Mr. RIBICOFF. Mr. President, I move

tunity to speak before you today on the Department of Education.

I am adamantly opposed to a new, Cabinet-level Department of Education for many reasons. In this day of sprawling bureaucratic growth, I believe removing education from the Department of Health, Education, and Welfare would not only be an added cost to taxpayers, but harmful to the schools so vital to our Nation. Presently, the United States provides the world's best and most extensive educational program. The strength of this system arises in its diversity and extent, and given the complexity, size, and variety of needs found in the different sectors of the Nation, we need a sensitive and responsive educational program dominated by the local citizenry.

Diversified State and local school boards currently seek to respond and administer to the many needs of our school systems, and because most educational needs are strictly local in character, such decentralized administrations are far more sensitive and responsive than is the Federal Government.

This single department concept is not a new one. Historically, from 1908 through today, nearly 130 legislative proposals have been introduced in Congress calling for a department for education. Except for the bill introduced last year, none of these bills ever reached the floor of either House. Now I ask, why would such legislation never have reached maturity if it in fact streamlined the Federal role in education, though there are several sections which suggest the contrary.

But slowly and inexorably, the objectives of the bill became apparent. A spokesman for the National Education Association has admitted:

> Creating a department of education is, indeed, a profound step in which the federal government will be recognizing, for the first time, that it has a responsibility for education in and of itself.

In addition, it has long been a knowledgeable assumption that a new Department of Education will merely promote a potent lobby for even greater Federal subsidies for education. And, everyone knows that following every Federal dollar comes a Federal regulation.

As David Breneman and Noel Epstein point out in the Washington Post:

> To create a department of education is, at heart, an exercise in policymaking, not in efficiency. Making education the defining element of a cabinet-level department is essentially to authorize the creating of a federal policy for education itself.

On page 25, S. 210 concedes this point where it makes a new Federal interagency committee responsible for "the improvement, development, and oversight of a comprehensive Federal policy for education."

Those who feel that curriculum, school policy—in short, the substance of education—should fall within the careful purview of a Cabinet-level department created for that purpose will no doubt welcome the creation of this new bureaucto reconsider the vote by which the amendment was rejected.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BAKER. Mr. President, does the Senator from North Carolina mind if the Senator from South Dakota (Mr. PRESSLER) goes briefly with something they will accept?

Mr. HELMS. Not at all. I am delighted.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senate is not in order.

Does the Senator from Virginia wish to be recognized in his own right?

Mr. WARNER. Thank you, Mr. President.

Mr. President, I rise to speak in opposition to S. 210.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I yield 1 minute.

Mr. DANFORTH. Yes. I certainly will yield. How much time does the Senator wish?

Mr. WARNER. One minute.

Mr. DANFORTH. I yield 1 minute to the Senator from Virginia.

Mr. WARNER. I thank the distinguished Senator from Missouri.

Mr. President, I rise to speak in opposition to S. 210.

Mr. President, I welcome the oppor-

eral Government, was fiscally efficient, and allowed localities and States to retain control of education? It appears to me that the majority of legislators for more than 70 years have shown discretion and sound judgment in declining to let the Department of Education concept become a reality.

Though the Federal Government now provides many grants and aid programs to schools, many of which are valuable, the needs of our schools are determined best by local school boards, as they are better equipped to understand local problems and administer these funds.

So I say to you, as I have said on many occasions prior to this one, that the first step in achieving the goal of improving education in the United States is preserving and strengthening local control and local initiative in educational matters.

The American Federation of Teachers, Department of Legislation, in March 1979 in a fact sheet entitled, "Deficiencies in Federal Department of Education Legislation: A Non-Solution to the Problems of Education on the National Level" noted:

> Establishing a federal department to administer 8% of the funds will result an imbalance between state and local government and the federal establishment. No local school district or state can match a federal department's clout in a disagreement.

Originally, the single department concept drew much of its support from people who viewed the issue as the enhancement of bureaucratic efficiency through governmental reorganization. Accordingly S. 210 contains numerous disclaimers of any purpose to expand the Federal

racy. To those, such as myself, who feel that Federal Government involvement in education is more the problem than the solution, this development can only be regarded with considerable alarm.

Between the passage of the Elementary and Secondary Education Act of 1965 and the present, the increase of Federal aid to education has borne an inverse relationship to almost every indicator of academic achievement.

At a time in which even the Washington Post was doing exposés about illiteracy among high school graduates, the Federal Government was spending hundreds of millions of dollars on programs dealing with metric education, consumer education, environmental education, health education, and population education. Given the ideological priorities which the Federal education bureaucracy has set, is it any wonder that billions of taxpayers dollars have been lost?

To organizationally enhance the ability of this bureaucracy to compete for more Federal funding will surely cost us a lot more money without resulting in any substantive improvement in the quality of education. As the Post remarked recently in an editorial:

> Education has always been primarily a responsibility of the states, a wholesome tradition that deserves to be continued and one, incidentally, that is much honored in debates on the Senate floor. It would (be) nice if the Senate were to act on all these pieties when the vote is finally taken.

I urge all Senators to look at this legislation with particular concern before the final vote is cast.

Thank you very much.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The junior Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I will yield to Senator PRESSLER.

The PRESIDING OFFICER. Does the Senator wish to call up an amendment?

Mr. MORGAN. Yes; I wish to call up an amendment.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. MORGAN. I have an amendment to call up and then I will yield.

AMENDMENT NO. 143

(Purpose: To prohibit the transfer of additional functions to the Secretary of Education)

Mr. MORGAN. Mr. President, I call up my amendment No. 143 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 143.

Mr. MORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, between lines 13 and 14, insert the following:

"PROHIBITION AGAINST ADDITIONAL TRANSFERS

Mr. ROBERT C. BYRD. Mr. President, could we have a time limitation on the two amendments?

Mr. PRESSLER. It will not take me more than 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that we have a time limitation of 6 minutes equally divided?

The PRESIDING OFFICER. Which one will the Senator call up first?

Mr. PRESSLER. It is all right with me.

Mr. ROBERT C. BYRD. It is agreeable to the Senator?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota.

UP AMENDMENT NO. 104

(Purpose: To establish an Assistant Secretary for Vocational, Adult, and Community Education; and to require the Federal Interagency Committee on Education to study the accomplishments of Federal vocational education programs)

Mr. PRESSLER. Mr. President, my two amendments are at the desk and they regard the priority vocational education as given.

The PRESIDING OFFICER. Does the Senator wish the amendments to be offered en bloc?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

cluded in the report a more definitive description of what is happening in the vocational education area.

I would like to praise the gentleman from Connecticut (Mr. RIBICOFF) and our colleague from Illinois (Mr. PERCY), for their fine work in developing S. 210, the Department of Education Act of 1979. I believe the proposal set before us today is a responsible effort to give education the priority treatment it should have in our society without increasing the size of the Federal bureaucracy or undermining the control of the local community over its own educational programs in its schools.

As a former member of the House Education and Labor Committee, and its Subcommittee on Elementary, Secondary and Vocational Education, and as the chairman of the Congressional Advisory Committee for the Distributive Education Clubs of America (DECA), I am an enthusiastic advocate of vocational and technical education and their importance in our society. Our manpower needs demand increased emphasis on vocational education both for students who go on to traditional college and university liberal arts programs, and to those who do not.

With over 15 million Americans involved in vocational education at this time, I believe we can say that vocational education has "come of age" in this country. I am very pleased to see that an Office of Occupational, Adult, and Community Education is created by S. 210.

"SEC. 309. The President may not use the authority under chapter 9 of title 5, United States Code, or any other reorganization authority to transfer any function or program to the Secretary not specifically transferred by this Act."

On page 73, in the table of contents, insert immediately after the item relating to section 308 the following:

"SEC. 309. Prohibition against additional transfers.".

The PRESIDING OFFICER. The Chair inquires of the Senator from North Carolina whether this is the amendment on which a time agreement provides for 2 hours of debate?

Mr. MORGAN. That is correct.

The PRESIDING OFFICER. The Chair thanks the Senator.

Mr. MORGAN. Now, Mr. President, I yield to the Senator.

Mr. PRESSLER. Mr. President, do I have the floor?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I have cleared this with the distinguished Senator from North Carolina (Mr. MORGAN), that his amendment be temporarily laid aside in order that Mr. PRESSLER may call up an amendment which Mr. MORGAN wishes to see disposed of.

Mr. DANFORTH. There are two amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. I have no objection, but mine will be very brief. I have two amendments, and I believe I have an agreement or a tentative agreement on their acceptance. They regard vocational education.

The Senator from South Dakota (Mr. PRESSLER) proposes unprinted amendment numbered 106, en bloc.

On page 81, line 1, strike out "Occupational" and insert "Vocational".

On page 83, lines 5 and 6, strike out "occupational" and insert "vocational".

On page 86, line 5, strike out "Occupational" and insert "Vocational".

On page 86, line 8, strike out "Occupational" and insert "Vocational".

On page 86, lines 9 and 10, strike out "Occupational" and insert "Vocational".

On page 89, line 11, strike out "Occupational" and insert "Vocational".

On page 72, in the table of contents, in the item relating to section 207, strike out "Occupational" and insert "Vocational".

On page 98, between lines 13 and 14, insert the following: progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the".

Mr. PRESSLER. Mr. President, the purpose of these two amendments is to give recognition and a high priority to vocational education. In the time that I served in the House of Representatives I worked with a number of vocational education groups across the country as well as in South Dakota, and the feeling is that by including these amendments we will be assured that what has come to be known as vocational education will be given an appropriate priority.

There has been a feeling in many sectors that sometimes vocational education is given a lower priority, that it is recognized as something that students who do not do as well go into. Yet our job requirements in the next 20 years are very much in need of people trained in the skills and trade areas.

This would require that there be in-

However, since I believe the creation of a Cabinet-level Department of Education should be used as an opportunity to elevate our efforts in the area of vocational education, I believe the Office of Occupational, Adult, and Community Education should be renamed the Office of Vocational, Adult, and Community Education.

Vocational education has been given a backseat in the Federal Government's educational policies. There is a prevailing attitude that vocational education students are second-rate and that they do not do well in school. Also, society looks down upon vocational education and traditional work. This attitude is simply wrong.

The United States needs skilled workers. Occupational projections for the next decade indicate there will be a great need for specific skills which are now available through voc-ed institutions. Our Government can no longer afford to ignore the importance of vocational education if we are to meet our Nation's future occupational needs.

We need to recognize the importance of vocational education as an equal partner with liberal arts education in American society. If our manpower needs are to be met, and nationwide unemployment reduced, I believe we must give very serious consideration to continually strengthening our voc-ed programs. The creation of a Cabinet-level Department of Education, and an Office of Vocational, Adult, and Community Education will be a positive step toward that goal.

Mr. RIBICOFF. Mr. President, both

amendments en bloc are acceptable to the manager of the bill. I yield back the remainder of my ime.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota. [Putting the question.]

The amendment was agreed to.

AMENDMENT NO. 143

Mr. MORGAN. Mr. President, I believe I called up my amendment 143 earlier.

The PRESIDING OFFICER. The Senator is correct.

Mr. MORGAN. Mr. President, the amendment I am now offering, which is cosponsored by Senators Stevens and Helms is a one-sentence amendment which would do nothing more than to require that legislation be passed to authorize the transfer of any additional programs or agencies into the Department of Education, if and when it is created. The amendment reads as follows:

> "Sec. 309. The President may not use the authority under chapter 9 of title 5, United States Code, or any other reorganization authority to transfer any function or program to the Secretary not specifically transferred by this Act.".

Mr. President, in all fairness to the other Senators, I should say that I am opposed to the creation of the new Department of Education for many reasons, most of which I have previously stated on the floor of the Senate. education programs; it removed the National Foundation of the Arts and Humanities; it removed all of the National Science Foundation's noneducation programs and about 70 percent of their science education programs from the proposed Department.

In addition, the overseas schools of the Department of Defense, I believe, may still be deleted from this bill.

What I am saying is that last year the Senate expressed the will of this body that those programs be excluded. Now they are not in the bill.

In spite of these decisions, the administration's enthusiasm for a comprehensive Education Department remains unabated. Administration officials have repeatedly cited the need to consolidate what they call fragmented education-related programs as a reason for supporting this bill.

At this very moment, before a Department of Education bill has been passed by either the House or the Senate, the Office of Management and Budget is again studying whether the Indian education programs in the Bureau of Indian Affairs should be transferred to the new Department. Why this is once again being studied is not clear, unless the groundwork is being laid for a transfer under the Reorganizaton Act once this framework has been established.

I say this because everybody's views on this subject are already out in the open. President Carter stated last July, and I want to quote specifically what he Congress is unwilling to accept is desirable.

While no section of this bill could be found that dealt with this finding, it is worth noting that a fact sheet recently published by the Governmental Affairs Committee states that "the new Department will represent a sound base upon which to consolidate, in the future, more scattered Federal education programs."

I want to repeat that. The fact sheet states that "the new Department will represent a sound base upon which to consolidate, in the future, more scattered Federal education programs."

I believe that once the new Education Department is established, attempts to expand it will rapidly follow.

Let me take a minute and explain how the President's reorganization authority presently works. Should the President wish to reorganize, he may send a reorganization plan to the Congress. This reorganization plan would go into effect after 60 calendar days unless either House of Congress disapproves it.

Admittedly, any Member of either body can force a vote on a reorganization plan within the 60-day period. But a Senator or Representative trying to prevent the reorganization is going to be in the position of attempting to get a majority of the Congress to support him and oppose the administration, and he is going to have less than 2 months in which to find this majority.

My amendment would simply shift

Some of those reasons are specifically with regard to programs that I think are functioning now better where they are than where they could or would function under the Department of Education.

I do not want to mislead anyone by saying that if my amendment is adopted I would then be for the bill. What I am trying to do is to recognize what may be inevitable, and make the bill as palatable as possible.

What my amendment would do is simply to say that, once the Department is created under the guise of a skeleton organization, that the President cannot come back under his reorganization power and then suddenly transfer into the Department of Education all of these other programs that have been excluded for the purpose of getting the bill passed, such as the Indian education program which, I think, has already been discussed here on the floor today, as well as nutrition programs, veterans education, Head Start, and others.

But I think this amendment is necessary in order to assure that the will of the Congress is not thwarted by Executive order.

While the administration is on record time and time again as favoring a comprehensive Department of Education, Congress has made its preference for a limited Department quite clear. During the last year, at various stages in the legislative process, the Senate has removed the Head Start program; the Senate has removed the child nutrition programs, the Interior Department's Indian said:

> Under my proposal for a Cabinet Department of Education, the Indian Education Programs, now located in the Bureau of Indian Affairs, would be moved to the new department. I have recommended this transfer because I believe it will make Federal school-based programs more effective.

James McIntyre, Director of OMB and the boss of the people undertaking this latest study, has stated:

> These transfers would place in the new Department all Federal Indian education programs and would thus encourage the development of a comprehensive policy toward Indian education.

Congress position on this subject is equally clear. The Senate voted 47 to 39 against the transfer last year, and I daresay that the margin would be greater this year. Over in the House of Representatives, it is quite clear that no Department of Education bill would ever emerge from the Government Operations Committee if the Indian education programs were to be transferred.

I do not understand why the administration is so intent on thwarting the will of the Congress, and I do not think that we should let them do so.

And, Mr. President, North Carolina has a substantial Indian population.

The first section of the bill before us states that "the Congress finds and declares that the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education." In my view, that strongly implies that a comprehensive department of the type the some of the workload. It would force the administration to justify any transfers into the Education Department to a majority of the Congress, rather than forcing a Member of Congress to get a majority to take positive action against the transfer and the administration within less than 2 months.

I think this is perfectly reasonable. The Congress has thoroughly discussed the question of whether to establish this new Department. Having made a decision not to include a number of education-related programs, I do not feel this decision should be challenged by a bureaucracy trying to expand or any future reorganization-prone administration. I believe it is important that we close this loophole in the bill to prevent the administration from trying to accomplish by Executive order what they have been unable to get this Congress or the last Congress to adopt through legislation.

If the Congress had not specifically excluded these programs last year, and had they not intentionally been left out of these bills this year, then I could understand why the President should be allowed to use the reorganization authority to do that. But these matters have already been discussed in this body and voted down.

I would note that the administration has repeatedly attempted to circumvent the will of Congress in this fashion. In fact, just the other day I received a report from the White House about something called the Department of Natural Resources. The administration is proposing to create a brand new cabinet-level

Department through the President's reorganization authority.

The administration is proposing this even though the chairman of the Governmental Affairs Committee, who has been extremely cooperative with them on all reorganization matters, has labeled this as an abuse of the Reorganization Act.

It seems to me that if the administration is prepared to try to abuse the Reorganization Act over the opposition of the Senator from Connecticut, they certainly would be willing to use the Reorganization Act to thwart the will of the Congress on issues where the Senator from Connecticut agrees with them.

This amendment does not in any way affect the substance of the proposed Department of Education, nor does it make any changes in the Reorganization Act of 1977. It only prevents the Reorganization Act from being used on the Department of Education, a Department which did not exist when the Reorganization Act was passed.

It is inconceivable to me that anyone would oppose this amendment unless they plan to work for the expansion of the proposed Department through nonlegislative means at some future date. This is a needed amendment which closes a little loophole in the bill, and I urge my colleagues to support it.

I want to say once again, Mr. President, that the bill on this new Department of Education is being presented to us without many education programs—without Indian education, without the Department of Education through Executive action without the approval of the Indian community.

As Senators know, the President has the authority under the Reorganization Act of 1977 to transfer programs and agencies within the executive branch. The Senate or House can veto the President's action within 45 days if we disagree.

The Morgan amendment would change this procedure with respect to the proposed Department of Education by requiring the President to submit specific legislation for each program or agency he wishes to transfer.

I support the Morgan amendment because I do not want to see the Indian education programs transferred into the Department of Education in an attempt by the administration to consolidate Federal education programs without complying with the wishes of the Indian community. The Senate voted against transferring the Indian education programs into the Department of Education last year. Congress has expressed its intent in this area, and I feel specific legislation should be required to change the placement of the Indian education programs.

We should not be faced with administrative transfers of programs such as: Child nutrition, Head Start, Indian education, and the National Endowment for the Arts and the Humanities into the Department of Education, which have been specifically excluded by the action of Congress. Without passage of the Morgan amendment these transfers, in my He would have to send up a reorganization plan. There would be hearings, and then automatically a disapproval resolution is submitted. So it would have to come to the Senate and the House for a vote. If either House voted nay, then the reorganization plan would not be approved. So under the circumstances, I oppose the Morgan amendment and hope it is defeated.

Mr. MORGAN. Mr. President, if I understand the floor manager correctly, his argument is that this amendment is unprecedented in that never has a Department been specifically excluded from reorganization authority.

Mr. RIBICOFF. No. The crux of the argument is that at no time since 1949 has there ever been a limitation on the President's reorganization authority, similar to this type of proposed exception. What I am saying is that if the President sends up a reorganization plan, then a resolution of disapproval can be filed by any Senator, and any Senator can call it up for a vote. As a matter of fact, under the procedures now, the chairman of the Governmental Affairs Committee automatically, with every reorganization plan, sends up his own resolution of disapproval. Any one of 100 Senators, at any time within the 60-day period, can call it up for a vote after the first 30 days.

So if the President sent up a reorganization plan to transfer Indian education, let us say, then the Senator from Alaska could call it up for a vote, a vote for disapproval.

Head Start, without the nutritional programs or humanities programs.

These matters having been debated on the floor of the Senate, I believe that the sponsors of this legislation ought to say that, even though we personally think they should be included, we are willing to require the administration to come back and seek the approval of Congress before they undertake to circumvent and thwart the will of Congress.

So I urge my colleagues to vote for this amendment. It does not and will not prevent the President and the administration from coming back and presenting to us measures that would transfer these activities into the new departments, but it would require that there be full and open debate, and that it follow the normal legislative process, rather than placing the responsibility upon an individual Senator to marshal a majority of one of the bodies of Congress within a 60-day period.

I urge my colleagues to support the amendment.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MORGAN. I am delighted to yield to the Senator from Alaska.

Mr. STEVENS. I thank my colleague the sponsor of this amendment.

Mr. President, although I am a cosponsor of the Department of Education bill, my support was contingent upon the removal of the Indian education transfer study from the bill. Even though this provision has been deleted, I cosponsored the Morgan amendment to insure that the Indian education programs remain with the BIA and not be transferred to opinion, are probably inevitable, and I urge the Senate to vote in favor of this amendment, which I consider to be a very important amendment to the education bill, to prevent expanding the Department beyond the scope and intent of Congress as it considers this legislation.

I thank my friend.

Mr. MORGAN. Mr. President, lest I should forget it, I ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, the amendment of the Senator from North Carolina, by carving out a special exception to the reorganization authority, would be setting a dangerous precedent.

Since 1949, no agencies or departments have been exempted by name under reorganization authority, nor is the Governmental Affairs Committee aware of any successful attempts to prohibit transfers under reorganizational authority to any particular agencies or departments. If the Congress does not approve of a certain transfer of a program to the new Department, it has the right to disapprove reorganization plans submitted by the President pursuant to the Public Law 95–71.

I did not quite understand the distinguished Senator from Alaska. The President could not, by Executive order, under any circumstances transfer Indian education in the Bureau of Indian Affairs to the Department of Education.

So in no way can the President himself, in any way, transfer one function from one department to another department by Executive order and preclude the Congress, either the House or the Senate, from casting its vote.

Mr. MORGAN. I think everyone understands that, and I think I made that clear in my statement. But I do not see, Mr. President, what is wrong, if the President wants to transfer these departments, since they have already been debated on the floor of the Senate. I see nothing wrong with it being handled through the regular legislative process.

My distinguished colleague said never since 1949 has a President been precluded from reorganization of a special department. But never since 1949 has the Department of Education been created. But with a department being created and these particular issues having been debated, it seems to me that it certainly could not hurt the bill at all, and would offer some assurance to those who are interested in these excluded programs, to require that the Congress approve without the President circumventing the normal legislative process.

We are creating a department in an area where the Federal Government has no constitutional authority to act and has not acted in the past, except that education has been a means to some other goal of the Federal Government. The Constitution of North Carolina provides that the State of North Carolina shall provide a free public school education for every child. The U.S. Constitution is silent in this whole area. If my research is correct, never has this Congress passed an educational bill solely for that purpose. They have been passed as a means to achieve some other goal of the Government.

Maybe we need an unprecedented measure to prevent an unprecedented Department from growing into a monster that most of us would not like to see.

But more important, the Department of Education did not exist when the Congress passed the Reorganization Act. It is quite conceivable to me that the Congress would have added an amendment such as the one I am now proposing to the act at that time, had the Education Department then existed.

Mr. President, it is important to remember why the Congress granted the administration reorganization authority in the first place. The Congress did not delegate this authority to the President because it intended for the executive branch to be able to routinely short-circuit the legislative process.

The Reorganization Act was written by the House Government Operations Committee and enacted into law without any changes. Thus, their committee report on the bill is the definitive statement of congressional intent. Let me quote a couple of sentences from the section in the report entitled "Need for Reorganization Authority":

> At the present time (I note that this is over two years ago) there is substantial support for a broad review of the Government's organizational structure. The President has made a commitment to undertake such a review and to take such action as is necessary to re-

from Connecticut, which is why I am offering this amendment today. I do not want to have to deal with any administration trying, as is being attempted with the proposed Department of Natural Resources, to accomplish through a reorganization plan what they cannot accomplish through legislation.

I would hope that the Senator from Connecticut can support this amendment. It would simply prevent the same kind of abuse of the Reorganization Act that we have been talking about.

I make it clear again that I have never contended that the President could transfer programs by Executive order alone without giving us the opportunity to reject it. But I have said that it is placing the burden on the Members of Congress, under difficult circumstances, when it would be much more acceptable, I think, and much more in keeping with the precedents of this Senate, to submit it through the normal legislative process.

I urge my colleagues to vote for this amendment. It does no damage, it does no harm, to the bill. It does no harm to the intent of the majority of the Members of this Congress.

Mr. THURMOND. Will the Senator yield 1 minute?

Mr. MORGAN. I will be glad to.

Mr. THURMOND. Mr. President, I commend the able Senator from North Carolina for offering this amendment. I think it is a sound amendment. As I understand it, it merely leaves to the Congress if at a later date they see fit to take action on matters that he re- mention two programs that I feel very strongly about. One is the Head Start program. That program was initiated by Congress very, very wisely, to help the deprived and poor children of this land, not only educationally, but from the health standpoint, and the nutritional standpoint, and others. I do not believe there are many people in this great country that would argue against that great program or would not concede that it has been one of the most effective programs that has ever been initiated. I think it was effective, because it was in a department where broader issues were considered:

The school lunch program is one, I think, Mr. President, that [illegible] of the Senate know I have been [illegible] about since the day I entered the Senate.

We require by law that boys and girls all over this country attend school. We give them free baseball bats and we give them free books, but we do not give all of them something to eat. But we have made a great deal of progress under the Department of Agriculture. It was started in the Department of Agriculture, maybe, for another reason—to help dispose of surplus farm commodities, but it has been successful there. I hope that someday, we will see that program provide a free lunch for every boy and girl that enters the schools of our Nation without having to go through the humiliation of subjecting themselves to prove a need or what-have-you. But I think it can be made more effective by staying exactly where it is.

> organize the Government to operate in a more efficient manner. The committee supports that endeavor and recommends enactment of H.R. 5045 as a vehicle for carrying out that objective in an expeditious manner.

Clearly, none of this would apply to the Department of Education. The Congress has now undertaken a thorough review of the organization of the Federal Government's education related programs. It is and will work its will with regard to these programs and the creation of a separate Department of Education. Any attempts to transfer programs into the Department that the Congress has refused to transfer would be the equivalent of trying to thwart the intentions of Congress and of circumventing the legislative progress.

The administration is right now demonstrating its willingness to use the Reorganization Act to thwart the will of Congress. Just a couple of days ago, I received notice from the White House that a reorganization plan will be sent to the Congress next month for the purpose of creating a Department of Natural Resources.

This reorganization plan is being sent up even though the distinguished chairman of the Governmental Affairs Committee has stated publicly that he considered such a move to be an abuse of the Reorganization Act which he would feel obliged to oppose. As the Senator from Connecticut said, just a couple of months ago:

> My committee feels very strongly that changing any programs from one department to another or basically changing the mission of a department should be done with a law.

I agree completely with the Senator ferred to.

The amendment of the Senator from North Carolina raises an issue about which I have grave concern—the sanctity of the education programs under the jurisdiction of the Veterans' Administration.

As I understand it, the amendment of the Senator from North Carolina would preclude transfer of educational programs not specifically enumerated in S. 210 unless the Congress at some later date amended the law authorizing the Department of Education. This amendment would prohibit the wholesale transfer of other education programs, such as the GI bill under a sweeping reorganization bill.

Mr. President, our Nation's 30 million veterans are unique and their education needs are unique. Congress must take steps to assure that the more than 1.9 million veterans and active duty personnel receiving veterans educational benefits continue to have their educational needs administered by the Veterans' Administration.

I believe the amendment of the Senator from North Carolina speaks very clearly to my concerns in this regard.

Again, I commend him for offering this amendment and I shall be pleased to support it.

Mr. MORGAN. Mr. President, may I inquire as to how much time I have left?

The PRESIDING OFFICER. The Senator has consumed approximately 27 minutes. He has 33 minutes remaining.

Mr. MORGAN. Mr. President, I think we have adequately presented the issue. I shall take another moment or two to

I suspect that if this bill is passed without my amendment, it will not be long before these two programs, that I think have been the most successful of all of the programs of this type, will be in the Education Department. They will lose some of the initial motive and momentum that they had. We shall find the nutrition programs getting away from farm commodities, back to cash money. These programs will lose the character that has made them so successful. I urge my colleagues to vote for the amendment.

I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, will the Senator from Connecticut yield me 2 minutes? Does he have ample time, sir?

Mr. RIBICOFF. I have ample time, Mr. President. I yield him 2 minutes.

Mr. DOMENICI. Let me say I am sorry my good friend from Alaska left the floor, because I wanted to talk a little bit about Indian education. You know, the good Senator who is the sponsor of this amendment has talked about Head Start as successful; Senator THURMOND has talked about veterans, and the education program there is rather successful.

My good friend from Alaska is the strongest supporter of the Indian people of any Senator here, in my opinion. He knows more about their detailed problems. I just want to say to him that it is amazing that we do not even want to study Indian education, because it is the worst. I mean, there is not a group of Americans getting a worse education than Indians. And we, the National Government in this case, are totally responsible. They are our wards. We are committed to educate them, and we want to leave them in the Bureau of Indian Affairs, an agency that was started to manage some roads and some oil and some coal, and they are educating our young Indian people.

So, while we want to pass this bill—and I am for it—we do not want to take any risks. We do not even want to study whether or not we ought to do something to move Indian education out of the Bureau.

That is all right; I agree with the managers, we ought to get the bill passed. If this amendment passes, that is fine. But let me tell you, somebody is going to study why, with hundreds of millions of dollars, the minority in this country that is getting the worst education deal around are the Indian people. While we are here talking about how to do a better job or maybe take a chance, the ones we ought to be thinking about and moving we want to protect in that inviolate posture of the most inferior. I just do not understand that.

I have tried my best to convince the Senators that we ought to take a chance at trying something new and they do not want to.

We tried it, as the good Senator knows, on Indian health, as he recalls. The same thing: The Bureau of Indian Affairs was running it and we did not do anything for Indian health.

The Senator from Connecticut got in a position in the administration, years did not make a point of stating strongly that Indian education was a failure and a disgrace, but he felt that it should not be transferred. The votes weren't there, and it was not transferred. The amendment would prevent the President from using his reorganization authority to impose a transfer of any function.

During the absence of the Senator from Alaska, the Senator from New Mexico, and the Senator from North Carolina, the Senator from Oklahoma (Mr. BELLMON) had an amendment for the transfer of Indian education to the Department of Education from the Bureau of Indian Affairs. Of course, I opposed it, because we know that it would have killed the bill, even though I feel it should be there. During the colloquy, the Senator from Oklahoma asked if I would join him in asking the GAO to study the problem of Indian education—not the President of the United States, but the Congress of the United States. Because the GAO is an arm of this body and not the executive branch. I told him I would do so.

The purpose was to have OMB and GAO enlighten the Senate on what the situation is with the Indians and their failures in education, one of the great tragedies of this Nation, and to give them an opportunity to consult with the Indian tribes and the Indian councils, and to work out with them a means of providing good education, because the Bureau of Indian Affairs is an absolute failure. It is a disgrace in the field of cumstances would I, as chairman of the Governmental Affairs Committee, try to establish a Department of Natural Resources through a reorganization plan, because the reorganization plan is intended to transfer one function from one department to another—not establish Cabinet departments.

But we specifically stated in the reorganization law of 1977 that under no circumstances could the President use a reorganization plan to create a new department. He could not create a Department of Education through a reorganization plan. It has to be done by legislation.

Thus, I asked that a Department of Natural Resources be done by legislation rather than by reorganization plan, even though I am for a Department of Natural Resources.

I am against the abuse of a reorganization plan creating a department. But it is another thing to deprive the President, for the sake of efficiency, to transfer one function and one program from one department and one agency to another, and this is what the Morgan proposal would be doing.

That does not mean the President could do it unilaterally. He could not be doing it by fiat. But, under reorganization authority, the President would have to send it up to the Congress, we would hold hearings, any Member could call for a vote, and a majority of the votes in the Senate or the House could turn down that transfer.

I think it would be wrong to say that

ago, in the executive and said:

> Let us try to put it where it belongs, where there are some professionals who know something about health.

We made some tremendous strides, contrary to the ominious warnings that it sure does not belong in HEW, it belongs over there in the Bureau of Indian Affairs.

We moved it anyway, and there is a lot left to be done, but tremendous strides have been made in Indian health. Not so in Indian education.

Maybe we want to leave it where it is so that the Indian people will opt out of the whole program and say, "We do not want anything to do with the Federal Government's educating us under the Bureau of Indian Affairs." Maybe that is the scheme, I say to my good friend, but be it as it is, we are not going to move it and we are not going to study it, because studying it in this bill might imply that we will try to improve it. But from my standpoint, we are going to study it somewhere. We are going to study it somewhere and we are going to do something to improve it, because, sooner or later, enough Senators are going to find out that that is truly a significant disgrace.

I thank the Senator for yielding me some time.

(Mr. GLENN assumed the chair.)

Mr. RIBICOFF. Mr. President, I think the Senator from New Mexico has very cogently indicated why the Morgan amendment should be defeated. One of the great disgraces in this country is Indian education. There is not a Senator who opposed the transfer last time who education.

Suppose the GAO comes out with its study as an arm of the Congress, not of the executive branch—and convinces the tribes that it would be better to have a system of education through the Department of Education, rather than the failure of all these decades of Indian education programs in the Bureau of Indian Affairs. And suppose we send this up to the desk of the President and the President reads it and says, "This does make sense," and he sends up a reorganization plan to the Congress to take education out of the BIA and send it to the Department of Education.

It would then be submitted to the Government Operations Committee in the House and the Governmental Affairs Committee in the Senate. Then we have to set it down for a hearing.

When that measure is sent up, automatically, I send up a resolution of disapproval to the desk, which means that within a period of 60 days, any one of the 100 Senators can move to call it up for a vote.

Then we hold hearings in the Governmental Affairs Committee and within 30 days, if we do not like the plan, we can suggest to the President he amend it and change it.

But we are the actors, and we are not depriving the Congress of the United States, either House, from voting down a reorganization plan. The President does not do it on his own—no.

The difference between transferring a program and creating a new department is important. I have told the President and OMB very clearly that under no circumstances in this department the President could not use his reorganization authority, and it is not the fact we have created a department that has not been created before. In recent years we created a Department of Energy, a Department of HUD, a Department of Transportation, which did not exist, if reorganization authority was in effect, the President can use it to transfer a program to any of these agencies, subject to Congress consideration. I do not think we should deprive the President of the United States from suggesting a transfer of a program to the Department of Education.

He cannot do it by himself. He cannot do it without a vote of Congress. A negative vote by a majority of this body could undo any reorganization plan or the transfer of any program, and I would not like to deprive the President of that authority, which we in Congress have given him by law.

Mr. President, I yield back the remainder of my time.

Mr. MORGAN. Mr. President, I will not prolong this, but if I understood my friend and distinguished colleague from New Mexico correctly, he said he thought Indian Health Services should be removed from the BIA and transferred somewhere else?

Mr. DOMENICI. No. I say to my good friend, historically, we had a very similar fight to this one on Indian health. It was at one point in history in the Bureau of Indian Affairs.

Mr. MORGAN. Right.

Mr. DOMENICI. It was doing a poor job, as is Indian education in the BIA.

Senator RIBICOFF happened to be in

the Department of HEW, or its predecessor, and he initiated putting Indian health in a health organization and taking it out of the Bureau.

Mr. MORGAN. Did I understand that the Congress had refused to do that?

Mr. DOMENICI. I do not know about that. I used it as an example of the predictions of dire things that were going to happen if we took anything away from the BIA.

Mr. MORGAN. I thank my friend.

I think the Senator makes a very cogent argument as to why this amendment ought to be debated.

I do not know whether the Indian education is equivalent to that of the other, or not. But, apparently, there is some difference between the Senator and the distinguished Senator from Alaska.

Surely, we have confidence in this Congress. I am sure all of us do. If it ought to be removed, then why not let the Congress debate it, as we did last year, and abide by the will of the Congress?

It is clear to me, Mr. President, and it is clear to me from the debate on this floor today, that it is the intention of the administration and others who favor these bills that as soon as this framework of the Department of Education is established, these departments will be transferred into a new Department of Education.

I think it is a fact that is acknowledged by all Members of the Congress that it is much more difficult for an opponent of a reorganization to muster the sup-

Mr. MORGAN. I yield.

Mr. DOMENICI. I was making the point, as the Senator from North Carolina understood properly, that my argument basically was not for or against the amendment. I was trying to say to my friend from Missouri that, while most programs were being kept out of the new Department because everyone thought they were working so well, I just wanted to make the point that we were leaving the Indians where they are, admittedly with the fact situation that they were doing very poorly.

I wanted to get that on record, because I feel very strongly about it.

Mr. MORGAN. That may be, if the Congressional Budget Office or the GAO—to which the Senator from Connecticut referred—is making a study. If that study is reported out, it should be reported out at a time when Congress will not feel compelled or constrained to make a hasty decision. If it came out during the month of August or July, as I pointed out, when we are dealing with appropriations, or if it should come out in September, it would be difficult. Last September, I was on conference committees and tried for 3 weeks to see my distinguished chairman, the Senator from Mississippi, and I could not. Those would be difficult times.

I urge my colleagues to vote for the amendment. I think I have said about all I need to say, and I am willing to yield back the remainder of my time and vote.

The PRESIDING OFFICER. Is all

The PRESIDING OFFICER. Have all Senators in the Chamber voted? Are there any Senators who have not voted?

The result was announced—yeas 38, nays 45, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—38

Byrd,
Harry F., Jr.
Byrd, Robert C.
Church
Cohen
Dole
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Metzenbaum
Morgan
Moynihan
Packwood
Proxmire
Pryor
Schmitt
Simpson
Stevens
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—45

Baker
Baucus
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chiles
Cochran
Cranston,
Culver
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Glenn
Hart
Hatfield
Heinz
Huddleston
Jackson
Javits
Kennedy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Nunn
Pell
Pressler
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stevenson
Tsongas

NOT VOTING—17

Armstrong
Bayh
Boren
Chafee
Gravel
Inouye
Leahy
Long
Muskie
Nelson
Percy
Stafford
Stennis
Stone
Weicker
Williams
Young

So Mr. MORGAN's amendment (No. 143)

port in a 60-day period and override the President of the United States than it is to have a full and open and free discussion on an issue that has been before committee, debated, hearings held, and then brought to the floor.

So I think the Senator makes the best argument that I know of as to whv this amendment should be adopted. I did not understand that my colleague really objected to this amendment too much. He said that regardless of which wav it happened, that the Indian affairs ought to be transferred.

I would say to my colleague that I am not so sure, but what we ought to go into this matter and transfer other matters from the BIA.

It may be time because, surely, we are spending enough money on our Indians to try to break them up and make them full-fledged American citizens, not second-class citizens.

It may be time we want to make some study to see how far we should go in bringing the Indian affairs into the regular processes of Government.

However, it should be done with full and open debate, without the time limit of a 60-day period. The reorganization or Executive order may come here in July, when we are debating the budget appropriation bills. We all may be involved later in the year. It may come in September, when we are trying to get the budget resolution passed and a dozen conferences are going on. I think we should assure ourselves that it will be held in an orderly fashion.

Mr. DOMENICI. Mr. President, will the Senator yield?

time yielded back?

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. MORGAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Maine (Mr. Muskie), the Senator from Wisconsin (Mr. Nelson), the Senator from Oklahoma (Mr. Boren), the Senator from Florida (Mr. Stone), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. Williams) is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of death in the family.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Illinois (Mr. Percy), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Chafee) is absent on official business.

I further announce that the Senator from Vermont (Mr. Stafford) is absent due to illness.

was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATUS OF AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, it will not be possible to complete action on this bill tonight. I wish, if I can, at this time to determine how many amendments remain. I have indicated on my list here an amendment by Mr. Schweiker, an amendment by Mr. Helms, two amendments by Mr. Hayakawa, four amendments by Mr. Jepsen, two amendments by Mr. McClure, five amendments by Mr. Goldwater, two amendments by Mr. Schmitt, and one amendment by Mr. DeConcini.

Is there any other amendment any other Senator wishes to add to the list?

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, as the majority leader knows, I tried to canvass the Members on this side to ascertain what other amendments might be offered. I know of no other except those that he has identified on his list.,

We contributed to that list based on my effort to ascertain that situation. I might ask, if the majority leader will yield further, if there is any Member on this side whose name was not on this list?

Mr. GOLDWATER. Mr. President, will the Senator yield? I have been able to cut my list to four.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, if the majority leader will yield further, I understand Senator HUMPHREY has one that he will offer, and he expects to take a brief time.

Mr. ROBERT C. BYRD. All right.

Now, under the agreement there is a 1-hour time limitation on any amendment in the first degree, with the exception of an amendment by Mr. HELMS on which there is a 1½-hour time limitation.

Mr. HELMS. Let us cut that to an hour. I will save you a half-hour.

Mr. ROBERT C. BYRD. I thank the Senator.

I ask unanimous consent, Mr. President, that the time on the amendment by Mr. HELMS be reduced to 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There is a time limitation on an amendment by Mr. SCHWEIKER of 2 hours. It is my understanding that he is willing to reduce that time, and the distinguished minority leader probably knows this, to a half hour.

Mr. BAKER. I have 1½ hours.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on that amendment be reduced from 2 hours to 1½ hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. That is right, but there are other amendments, and I do not know what they are, and I do not want to waive the germaneness rule on any amendment because we have a time agreement.

Mr. McCLURE. Mr. President, I might just indicate that I have discussed my two amendments with both the majority floor leader and minority floor leader, and they have agreed that they will be acceptable, so all I have to do is to submit them and submit a statement for the record and that will take very little time.

Mr. ROBERT C. BYRD. Could we agree——

Mr. McCLURE. Five minutes to a side on the two amendments.

Mr. ROBERT C. BYRD. Very well. On each of two amendments by Mr. McCLURE I ask unanimous consent that there be a time limitation of 10 minutes to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The question raised by the distinguished floor manager is a pertinent one, but I am at a loss as to how to assure him. For instance, I have not yet checked with the Senator from Iowa about his understanding. I am afraid he thinks that his are qualified.

Mr. RIBICOFF. We do not know. But in getting the time limitation it should

Mr. ROBERT C. BYRD. May I say to the distinguished Senator there is already a time limitation on any amendment in the first degree of 1 hour.

Mr. GOLDWATER. I will accept 1 hour and the other side can get 1 hour.

Mr. ROBERT C. BYRD. No, there is a time limitation of 1 hour. We are not changing the basic agreement at this time. There is already a time limitation on any amendment in the first degree of 1 hour.

Mr. GOLDWATER. I just want the majority leader to know that I will take the full time.

Mr. RIBICOFF. I reserve my right to raise the question of germaneness, including the one, the amendment, of the Senator from Arizona.

Mr. ROBERT C. BYRD. It would take unanimous consent to break that agreement which we already have, so what we are saying here does not change the agreement except that we are trying to reduce the time on amendments where we can from the 1-hour limitation to something less.

So on three of Mr. GOLDWATER's amendments I ask unanimous consent that there be a time limitation—of how much?

Mr. GOLDWATER. Ten minutes to a side.

Mr. ROBERT C. BYRD. Twenty minutes equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. SCHMITT

Mr. ROBERT C. BYRD. Mr. President, Mr. Jepsen has four amendments, and I am told he would be willing to accept a time limitation of 15 minutes on each of three of those amendments; am I correct?

Mr. BAKER. I have all four.

Mr. ROBERT C. BYRD. All four; am I correct?

Mr. BAKER. Mr. President, if the majority leader will yield to me, my list shows four amendments at 15 minutes each.

Mr. ROBERT C. BYRD. Equally divided?

Mr. BAKER. Equally divided. I might say if my list is incorrect, I hope we can agree to modify it, but I show four amendments of 15 minutes each equally divided.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. McClure has two amendments.

Mr. RIBICOFF. Mr. President, if the majority leader will yield for a question, I do not want the time agreement in any way to waive my rights to raise a question of germaneness on any of these amendments. I am concerned about the possibility that in getting a time agreement I may be waiving my right to raise the question of germaneness. I want to reserve that.

Mr. ROBERT C. BYRD. The Senator is right in raising the question. There is an amendment by Mr. Helms that was excepted by specificity earlier, be specifically set out that I reserve the right to raise the question of germaneness on any amendment even though a time agreement has been entered into. I would agree to except that from the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, the agreement we have precludes nongermane amendments.

Mr. RIBICOFF. With the exception of the amendment of the Senator from North Carolina.

Mr. ROBERT C. BYRD. And the amendment of Mr. Schweiker.

So whatever time limit we are stating, time limits on amendments now, I think it should be understood that they come within the context of the agreement that is already before the Senate, so that Senators should know that no Senator should be without his right to move to table simply because at this stage, after having laid down a general agreement, other Senators are coming in by specificity with regard to their amendments. So I would hope we could have that understanding that nongermaneness—the basic agreement would still apply.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I am sorry, I did not mean tabling, but his right to raise a point of order on germaneness.

Mr. GOLDWATER. To clarify my position, three of my four amendments will not take very long, 20 minutes at the most. But I do have one that prohibits striking by teachers under Federal money, and I think that is going to take some time.

has two amendments—I am advised he has three amendments. Would Mr. Schmitt be willing to reduce the time any below the 1-hour provision that now obtains on any of his amendments?

Mr. SCHMITT. Not at this time.

Mr. ROBERT C. BYRD. All right.

Mr. BAKER. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I understand that the request by Mr. Jepsen was for four amendments of 15 minutes each. But he wants the time interchangeable, that is, an hour for four amendments, and I trust there will be no trouble with that, but I amend my request to the majority leader in that respect.

Mr. ROBERT C. BYRD. Very well. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now Mr. Humphrey has one amendment. Would he be willing to go with less than 1 hour equally divided?

Mr. HUMPHREY. Yes. I intend to withdraw the amendment. Five minutes.

Mr. ROBERT C. BYRD. Five minutes to the side?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. I thank the Senator. I ask unanimous consent that there be a time limitation of 10 minutes on the amendment of Mr. Humphrey to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. DeConcini has an amendment on which there is a 1-hour time limitation under the bill.

Does he wish to stay with the hour or to reduce it? He shakes his head in the affirmative.

Mr. DECONCINI. To remain with the hour.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HAYAKAWA has two amendments, with 1 hour on each. Does he wish to reduce the time?

Mr. HAYAKAWA. On the first amendment, 15 minutes to be equally divided.

Mr. ROBERT C. BYRD. All right. I make that request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. To deal with the other amendment I should like an hour to be equally divided.

Mr. ROBERT C. BYRD. All right. No change on that.

Mr. President, while we are doing this, I wonder if we could order some amendments, so that on Monday when we come back we will know whose amendment is to be first and whose is to be second, so that we will not kill time waiting on Senators. Who will go first on Monday? Will Mr. SCHWEIKER? The Senate will come in at 10 o'clock on Monday.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I would be willing to go early, except that we have an Energy Committee markup on an energy plan which the President requested, so I would hope I would not have to have mine scheduled before 11:30.

Senate completes its business today it stand in recess until the hour of 10 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Are there any orders for recognition of Senators on Monday? None?

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CHILES. Do you know whether we will have rollcall votes before noon on Monday?

Mr. ROBERT C. BYRD. Yes; there will be, unless we can stack them.

Mr. BAKER. Mr. President, we are going to have 90 minutes on the Schweiker amendment, which comes up at 10 o'clock, so it will be close to noon.

Mr. ROBERT C. BYRD. It will be close to noon.

Mr. CHILES. Could we stack some votes on Monday morning?

Mr. ROBERT C. BYRD. That would be getting pretty close.

Mr. DECONCINI. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. DECONCINI. If we are going to commence these amendments on Monday morning, I would like the indulgence of the majority leader to ask for the yeas and nays on my amendment, because I understand that on Monday morning it is hard to get neough Senators here to get a second.

Mr. ROBERT C. BYRD. Would the Senator be willing ot take up his amendment yielded back, we would attempt to get another amendment up so that the first vote would not occur before noon.

Mr. TSONGAS. I thank the Senator.

Mr. ROBERT C. BYRD. Is there any other amendment?

Mr. HELMS. I will be ready.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HELMS be recognized to call up his amendment following the disposition of the DeConcini amendment on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe Mr. HUMPHREY is willing to call up his amendment tonight. Are there any other Senators who wish to call up amendments tonight and voice vote them? Or, if the managers are willing to accept them, they should do so; it would expedite matters on Monday, on completing action on the bill.

I ask unanimous consent also at this point that on any other amendments—we have given everyone a chance at this point to offer an amendment; we have called out on the hot lines that Senators who happen to have amendments should let us know; I think everyone has been treated fairly, so at this point I ask unanimous consent that on any other amendment to be called up on Monday, there be a limitation of one-half hour, to be equally divided in accordance with the usual form, with the understanding that the managers will have time on the bill which they could yield if needed.

Mr. BAKER. Mr. President, I have no

Mr. ROBERT C. BYRD. Will those three amendments require rollcall votes?

Mr. McCLURE. No.

Mr. ROBERT C. BYRD. Would the Senator be willing, after we state that there will be no more rollcall votes this evening, to call up his amendment tonight, then?

Mr. McCLURE. I am afraid I would be running into a problem tonight as well. It will only take a brief time Monday, and I am sure we will have other amendments for the afternoon on Monday.

Mr. BAKER. Mr. President, why not just schedule them for later in the day, if you are going to build a schedule for the rest of the day anyway?

Mr. ROBERT C. BYRD. I would like to have at least one to start with. How about Mr. DeConcini? Mr. Hayakawa, would he be agreeable?

Mr. SCHWEIKER. I will. Could we get the yeas and nays tonight?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on the amendment by Mr. Schweiker.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SCHWEIKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR RECESS UNTIL 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the ment immediately after the amendment by Mr. Schweiker?

Mr. DeCONCINI. If it is after 12 o'clock, yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator from Arizona (Mr. DeConcini) be recognized to call up his amendment following the disposition of the amendment by Mr. Schweiker.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Could we have the yeas and nays?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the DeConcini amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Is there another Senator who would be willing to call up his amendment?

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TSONGAS. Does the Senator have any idea, is there any vote scheduled Monday morning?

Mr. ROBERT C. BYRD. There is none scheduled at the moment, but the first vote, if the full 90 minutes were used on the Schweiker amendment, would occur close to 12 o'clock noon. If time is objection to that. I think we have spent a good part of the afternoon trying to ascertain who has amendments. We have covered most of the Members on this side, I think, so I am willing to take the responsibility for agreeing to that.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

NEXT ROLLCALL VOTE TO OCCUR ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight. The Senate will meet at 10 o'clock on Monday. There will be several rollcall votes on Monday, the first to begin at around 12 o'clock noon.

DEPARTMENT OF EDUCATION

The Senate continued with the consideration of S. 210.

AMENDMENT NO. 144

(Purpose: To provide that receipt of Federal funds by a student enrolled in or in attendance at an institution of higher education does not constitute Federal aid)

Mr. HUMPHREY. Mr. President, I call up my printed amendment No. 144 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask

unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, between lines 12 and 13, insert the following:

"CONSTRUCTION OF FEDERAL AID TO HIGHER EDUCATION

"SEC. 429. Notwithstanding any other provision of law, receipt of Federal funds by a student enrolled in or in attendance at any institution of higher education, in which such institution plays no part except for certifying to or notifying any Federal authority the enrollment and attendance of the student, shall not constitute Federal aid for purposes of any Federal law, including any Federal law relating to discrimination.".

On page 131, line 14 strike out "SEC. 429." and insert "SEC. 430.".

On page 73, in the table of contents, renumber the item relating to section 429 as the item relating to section 430 and immediately after the item relating to section 428 insert the following:

"Sec. 429. Construction of Federal aid to higher education.".

Mr. HUMPHREY. Mr. President, I congratulate the floor manager of S. 210, the Department of Education bill, the distinguished Senator from Connecticut (Mr. RIBICOFF), for a remarkable summary which has been received by the membership detailing his opposition to the various amendments that have thus far surfaced in connection with this legislation.

It is obviously a formidable task to take all the amendments, summarize their

The amendment provides that federal funds provided to institution of higher education for student assistance shall not be considered federal aid.

Mr. President, the circumstance which occasioned my amendment involves a small liberal arts college in western Pennsylvania of impeccable repute. It receives not a penny of Federal aid—never has, and does not want any federal aid. I am referring to Grove City College in Grove City, Pa.

Manifestly my amendment was drawn precisely to protect those colleges which do not receive any Federal aid, and which do not want any Federal aid. The tuition assistance received by the student—is received directly. The Federal check does not issue from the Government to the institution to the student.

As I pointed out in my statement accompanying the amendment on April 10, the school's only role is that of certifying the attendance of the student to the appropriate HEW authorities. They do not maintain a grants, or a Federal aid to students office.

Mr. President, I do not know whether the authors of this summary did not read my amendment, or perhaps, find it difficult to understand in this age of big Federal Government, in this age of subsidies, that there are some institutions of higher learning—just a handful to be sure—that eschew all forms of Federal aid.

I realize that is on par with man biting dog. But in fact Grove City College does not receive a dime of Federal aid.

Quite simply. They have an under- with title IX, save the refusal to submit the executed assurance of compliance." He said further: "This refusal is obviously a matter of conscience and belief."

Mr. President, I have been advised that my amendment does not come within the germaneness requirement governing consideration of S. 210, and therefore I do not intend to pursue it incident to the Department of Education legislation.

However, I do intend to reintroduce my amendment in the future to the appropriate legislative measure, and naturally I welcome the support of all concerned Members.

I do want to make it unmistakably clear that is applies to those institutions of higher learning which do not receive any Federal funds, and whose only function vis-a-vis those of its students who happen to receive some Federal tuition assistance is merely to certify their enrollment or continuance in school, a function which I am sure no school is eager to undertake, except to the extent that it facilitates the Government's control of taxpayers funds.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn. Who seeks recognition? Who yields time? Is all remaining time yielded back? The amendment is withdrawn. Who yields time? Who yields time?

Mr. WALLOP. Mr. President, last year I joined with 69 of my Senate colleagues in cosponsoring legislation introduced by meaning and intent, and offer a rebuttal to each of them.

Mr. President, what really concerns me, however, about the dear colleague letter from the chairman of the Governmental Affairs Committee is that an amendment which I have introduced to the Department of Education bill, bears no relation whatever to the summary of it contained in the memorandum which has been distributed to the membership.

Of course I do not impute this to my colleague from Connecticut, but perhaps to an overzealous staff member, perhaps pressed for time, and anxious that the membership be given the floor managers assessment of these various amendments in the quickest possible time.

However I feel an obligation to issue this clarification of my amendment, because I feel it is important that the membership know precisely what it is intended to do.

Let me state my amendment to S. 210, as introduced on April 10, 1979:

> Section 429. Notwithstanding any other provision of law, receipt of Federal funds by a student enrolled in or in attendance at any institution of higher education, in which such institution plays no part except for certifying to or notifying any Federal authority the enrollment and attendance of the student, shall not constitute Federal aid for the purposes of any Federal law, including any Federal law relating to discrimination.

Thus, nowhere in my amendment is there the slightest reference to any institution of higher learning receiving any Federal assistance whatever.

The floor manager's summary states: standable impulse and desire to stay free of Federal entanglements, and thus their only role in this matter is to certify to the appropriate authorities, that the student is in fact enrolled at Grove City, a certification, that would hardly invite the conclusion that it receives "Federal funds".

Mr. President, permit me to quote from a newspaper account of the tribulations which have visited Grove City College because of their refusal to knuckle under to the HEW bureaucracy:

> Grove City college which prides itself on independence maintains that it is not subject to Washington's authority because it accepts no federal funds. The Government contends that because some Grove City students receive aid under Federal Programs—let me repeat the operative phrase here—the college receives no federal funds, but some students do receive aid under Federal programs—the college itself it a recipient and must comply with Washington's regulations.

The students receive aid through basic educational opportunity grants, and guaranteed student loans, wherein the money goes directly to the students.

What brought about this situation is Grove City's refusal to sign a compliance form that it does not discriminate against women under title IX of the Education Amendments of 1972. "To sign a compliance form is to accept HEW jurisdiction over a college that doesn't take a penny of government money," states its President, Dr. Charles Mac Kenzie.

Does Grove City discriminate in its athletic programs against women?

An administrative law judge of HEW found in fact that "there was not the slightest hint of any failure to comply

Senator RIBICOFF to create a new department of education, separate and distinct from HEW. Although S. 991 passed the Senate by an overwhelming vote of 72 to 11, the House failed to act on the bill, thereby necessitating that the legislative process begin again in January of 1979.

Three months into the first session of the 96th Congress my colleagues and I find ourselves faced with another vote on the creation of a new department of education. Now known as S. 210, this legislation is almost identical to last year's bill except that the cosponsors listed on the front of S. 210 are distinctively fewer than last year's list of Senate supporters.

Given this history of rather broad support for this legislation, it is interesting to note the objections which have arisen in the last few weeks. A flurry of letters from colleagues has arrived in my office proposing every sort of change in S. 210 ranging from the inclusion of every educational program ever conceived to amendments which seek to forever exclude various programs from being placed under the jurisdiction of this new department. We have heard amendments to S. 210 dealing with a range of issues from prayer to abortion. In my opinion it is time to state the facts, look at the legislation and make a decision.

After considerable study and reflection, I have decided to oppose this bill. The reasons for my opposition are simple. First of all, the present administration has made a point in the last two years of trying to reorganize the Federal Government in order to decrease bureaucracy and undo some of the redtape which binds us all. This is a noble task. However, I have seen no evidence that these reorganization efforts have been effective, efficient, cost-saving or even less bureaucratic.

Based on the precedent which has been established by the Administration, namely the Department of Energy, I fear what another repeat of this blunder could mean. If we, as a legislative body, intend to condone yet another effort to reorganize anything, it is essential that we assure this country that another bureaucratic maze would not result. This legislation provides no such guarantees.

The concept of separating education from the HEW monster is acceptable, even desirable. However, too many questions have been left unanswered and the original consolidation has been hampered by the lack of cooperation among agencies and departments which have actively opposed giving up control of their programs which specifically deal with education.

S. 210 has brought to mind a number of fears since its inception, not the least of which is the public fear of a huge organized education agency breathing down the necks of local school systems and dictating curricula and policy to every local school district in America. The Federal Government has been involved in education since 1785 when early grants were given to the States to develop State colleges.

It is only in the last 20 years, that the Federal Government has taken an extremely active role in placing conditions on the money it grants to school systems and requiring their compliance. No one can deny that some of these "conditions" have created a more equitable educational system in America. Yet many are as quick to point out a demise in the quality of learning over the last 10 years for our children in public schools, in no small part, due to overregulation and Federal intervention.

The problems of education in this country are a concern to all. If we can offer our children a good education we can almost assure them of a good life. It is my contention that the answer to our problem is not to be found by reshuffling the existing education bureaucracy and creating a new Federal department. Education deserves better than misdirected motives than administrative convenience. The problems lie much deeper than what a reorganizational effort could achieve. In fact, a reorganization with existing modes of administration may well compound the problems of overintervention into local programs. We must dedicate ourselves to a reevaluation of our current Federal education policy and come up with solid answers which will provide our children with the learning experience they can build upon throughout their lives.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, MONDAY, APRIL 30, 1979 No. 51

Senate

(Legislative day of Monday, April 9, 1979)

DEPARTMENT OF EDUCATION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 210, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 20) to establish a Department of Education.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania is recognized to call up an amendment on which there shall be 1½ hours.

AMENDMENT NO. 139

" 'PRINCIPAL OFFICERS

" 'SEC. 402. (a) (1) There shall be in the Department of Health, Education, and Welfare an Under Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. The Under Secretary shall be compensated at the rate specified for level III of the Executive Schedule under section 5314 of title 5, United States Code.

" '(2) The Under Secretary shall carry out his functions under the direction and supervision of the Secretary. The Under Secretary shall report directly to the Secretary, and not to or through any other

thereof as may be provided by law, be divided into bureaus, and such bureaus shall be divided into divisions as the Under Secretary determines appropriate.

" '(b) The Under Secretary shall not delegate to any employee in any regional office any function which was not carried out, in accordance with regulations effective prior to June 1, 1972, by employees in any such office unless the delegation of such functions to employees in regional offices is expressly authorized by law enacted after August 21, 1974.

" '(c) Not later than February 1 of each year, the Under Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report on the personnel needs of the

(Purpose: To provide for the reorganization of the Education Division and the Office of Education of the Department of Health, Education, and Welfare)

Mr. SCHWEIKER. Mr. President, I call up my amendment No. 139.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an amendment in the nature of a substitute, numbered 139.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 72, beginning with line 11, strike out through line 21 on page 146 and insert the following:

"That this Act may be cited as the 'Education Functions Reorganization Act of 1979'.

"AUTHORITY FOR AND ORGANIZATION OF THE EDUCATION DIVISION

"SEC. 2. Sections 401, 402, and 403 of the General Education Provisions Act are amended to read as follows:

" 'EDUCATION DIVISION

" 'SEC. 401. (a) There shall be in the Department of Heath, Education, and Welfare, an Education Division which shall be headed by an Under Secretary of Education. The Education Division shall be the primary agency of the Federal Government responsible for the administration of programs of financial assistance to educational agencies, institutions, and organizations.

" '(b) The Education Division shall include the National Institute of Education, the National Center for Educational Statistics, and the Office of Education.

officer of the Department.

" '(b)(1) There shall be in the Education Division—

" '(A) an Assistant Secretary for Elementary and Secondary Education, who shall be the principal officer of the Education Division with responsibility for programs of the Education Division relating to elementary and secondary education;

" '(B) an Assistant Secretary for Postsecondary and Continuing Education, who shall be the principal officer of the Education Division with responsibility for programs of the Education Division relating to programs of postsecondary education;

" '(C) an Assistant Secretary for Research and School Improvement, who shall be the principal officer of the Education Division with responsibility for programs of the Education Division relating to research and development in education; and

" '(D) one additional Assistant Secretary, who shall carry out such functions of the Education Division which are not within the responsibilities of the Assistant Secretaries specified in subparagraphs (A) through (C), as determined to be appropriate by the Secretary in consultation with the Under Secretary.

" '(2) Each of the Assistant Secretaries established under paragraph (1) shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. Each Assistant Secretary shall carry out his functions under the direction and supervision of the Under Secretary, and shall report directly to the Under Secretary and not to or through any other officer of the Education Division.

" 'ADMINISTRATIVE REQUIREMENTS

" 'SEC. 403. (a) The Education Division, shall, consistent with such organization

Education Division and the assignment of personnel within the Education Division. Each such report shall include a description of the organizational structure of the Education Division and the assignment of personnel to carry out the various functions of the Education Division, and an analysis of the personnel needs of the Education Division.

" '(d) Not less than 85 per centum of the personnel employed in the Education Division shall be assigned to carry out the functions of Assistant Secretaries specified in section 402(b) and the functions of the Director of the National Institute of Education.

" '(e) The Under Secretary may change the title of an office or officer in the Education Division which is fixed by any law enacted before the effective date of the Education Functions Reorganization Act of 1979, but the Under Secretary may not change the responsibilities of any such office or officer or the compensation of any such officer.'.

"REDESIGNATION

"SEC. 3. (a) Any reference in any law, rule, regulation, certificate, directive, instruction, or official paper in force on the effective date of this Act to the Commissioner of Education or to the Assistant Secretary for Education are deemed to refer and apply to the Under Secretary of Education.

"(b) Any reference in any law, rule, regulation, certificate, directive, instruction, or official paper in force on the effective date of this Act to the Office of Education or to the Office of the Assistant Secretary for Education, are deemed to refer and apply to the Education Division of the Department of Health, Education, and Welfare.

"CONFORMING AMENDMENTS

"SEC. 4. (a)(1) Section 400(c)(1)(C) of the General Education Provisions Act is amended to read as follows:

"'(C) "Under Secretary" means the Under Secretary of Education;'.

"(2) Section 400(c)(1)(D) of such Act is repealed.

"(3) Section (c)(1) of such Act is amended by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

"(b)(1) Section 404 of such Act is amended by striking out 'Secretary' each time it appears and inserting 'Under Secretary'; and

"(2) Section 404(c) is repealed.

"(c) The second sentence of section 405(d)(1) of such Act is amended to read as follows: 'The Director shall be responsible to the Assistant Secretary for Research and School Improvement and shall report to the Under Secretary through such Assistant Secretary and not to or through any other officer of the Department.'.

"(d) Section 406 of such Act is amended—

"(1) by striking out 'non-voting' in subsection (c)(4),

"(2) by striking out 'shall, in consultation with the Office of Education,' in subsection (1)(1) and inserting 'shall'; and

"(3) by striking out 'shall, (in consultation with the Office of Education,' in subsection (1)(2)(A) and inserting 'shall'.

"(e) The second sentence of section 408(d) of such Act is repealed.

"(f) Section 422(a)(4) of such Act is amended by striking out 'section 403' and inserting 'part A'.

"(g) The second sentence of section 604(a) of the Emergency School Aid Act is repealed.

"TRANSITIONAL PROVISIONS

"SEC. 5. (a) On the effective date of this

the Federal education bureaucracy while at the same time hold the line on its size and power. My amendment would restructure and elevate our education division in the Department of Health, Education, and Welfare. So that education programs receive the attention and prestige they deserve, without the increased Federal regulation which a separate department would surely bring.

The substance of my amendment has been passed by the Senate once before—in the Education Amendments of 1976. This restructuring plan would set up a new education division within HEW which would finally bring some order from the confusion which presently reigns in the U.S. Office of Education. A new undersecretary for education would communicate directly with the Secretary of Health, Education and Welfare. Four assistant secretaries for education would administer Federal education programs and assistance for the undersecretary. The first, an assistant secretary for elementary and secondary education, would be responsible for seven bureaus: School improvement, handicapped, occupational, vocational and adult education, compensatory education, bilingual education, overseas dependent schools, and State and local programs.

The second, an assistant secretary for postsecondary and continuing education would handle the following bureaus: Student financial assistance, graduate education, continuing education, postsecondary education, and international step toward federalization of education in this country.

Mr. President, aside from the question of whether a separate Department of Education would increase Federal regulation of education programs, there remains the question of why we are setting up a separate Department of Education and leaving many education programs in other departments. Everybody says they want an education department until it comes time for their programs to be administered by it. Then there are 10 good reasons why they should be left out. There are not many more programs included in the structure in S. 210, than we have now in O.E. Can you imagine what will be the result of increased bureaucracy with only half of the education programs—I can, increased bureaucratic regulation of a type we have never seen before in education. The fact that the department has been pared down in terms of the substance it will administer can only mean increased regulation of the programs it presently operates. Those who support this legislation rather naively assume that because the bill supports the concept of local control that the State and local governments will continue to administer the educational programs. The examples we have seen in the last 20 years hardly support such an assumption.

At a time when the American people have indicated that they want less, not more Federal control over their lives, a Federal Department of Education is not called for—we can accomplish the ob-

Act, all employees, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and allocations of the Office of Education, as determined by the Director of the Office of Management and Budget, shall be transferred to the Education Division of the Department of Health, Education, and Welfare.

"(b) On the effective date of this Act, the Office of the Commissioner of Education and of Assistant Secretary for Education shall terminate.

"AMENDMENTS TO TITLE 5, UNITED STTES CODE

"SEC. 6. (a) Section 5314 of title 5, United States Code is amended by adding at the end thereof the following:

"'(70) Under Secretary of Education, Department of Health, Education, and Welfare.'

"(b) Section 5315 of such title is amended—

"(1) by striking out '(5)' in paragraph (17) and inserting '(4)'; and

"(2) by adding at the end thereof the following:

"'(128) Assistant Secretaries of the Education Division, Department of Health, Education, and Welfare (4).'.

"EFFECTIVE DATE

"SEC. 7. This Act shall take effect on October 1, 1979.".

Amend the title so as to read: "A bill to provide for the reorganization of the Education Division and the Office of Education of the Department of Health, Education, and Welfare.".

Mr. SCHWEIKER. Mr. President, as one who feels that a strong educational system is the most important resource we have as a Nation, I am offering an amendment to S. 210, the department of education bill, which will improve education. The third, an assistant secretary for research and school improvement would cover the National Institute of Education and divide into the following bureaus: Educational research and policy analysis, development, demonstration and dissemination, fund for improvement of postsecondary education, the National Center for Education Statistics, and Evaluation.

A fourth assistant secretary for education would be responsible for administering other education programs which do not fit into one of these broad categories, for example, library programs. The Secretary and Undersecretary would have the discretion to move programs around if this arrangement were found inadequate.

Mr. President, I offer this amendment today because of the incredible change I have witnessed in the past year in regard to a separate Department of Education. I am not exaggerating when I say that at least 75 percent of those who expressed their support for a department in the past have this year come to me to indicate that they no longer feel a separate department would have any positive impact on the state of education in this country.

These are people who have thought long and hard on this issue, people who have devoted their whole lives to the education of children and adults.

These educators are afraid of increasing Federal regulation of educational programs at both the State and local levels, and they feel the establishment of a separate department would be the first jectives of better organization and increased efficiency by a restructuring of education within HEW. I urge my colleagues to think carefully before voting on S. 210 and to support my amendment. The decision we make today will have a dramatic impact on future generations. We must decide whether we want education policy in this country to be set at the Federal level, or where it properly should be, set at the State and local level of government.

Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Pennsylvania.

When we had this measure before us we examined a number of alternatives to the establishment of a Department of Education, but the first one we ruled out very strongly was any sort of an internal reorganization of HEW.

If past is prolog, then we can expect no real improvements by reorganizing HEW internally once again.

Practically every past HEW Secretary has tried to reorganize HEW, and every time he was frustrated.

We could not find any justification for continuing to administer education programs side by side with health and welfare programs. The basic missions of the two differ substantially.

The health and welfare programs, which make up 95 percent of the HEW budget, are really income maintenance programs. They involve programs which dispense $180 billion annually just to maintain or improve the health and welfare of millions of Americans.

But education is not an income maintenance activity. As such, it has little to do with health and welfare programs in HEW.

By leaving education in HEW, it would be tantamount to saying that education is integrally tied to health and welfare programs. But in reality it is not. Rufus Miles, a former Director and Assistant Secretary of Administration at HEW for more than a decade, told the committee:

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. This coordination is simply a figment of the imagination.

I knew Rufus Miles, former Director and Assistant Secretary of Administration. When I became Secretary of HEW, he was a very important member of the permanent staff of HEW, and I kept Rufus Miles on the staff. It was not a partisan appointment. He was a dedicated, true civil servant. His knowledge of HEW was unsurpassed.

And Rufus Miles came and testified from his many years of experience with many, many Secretaries, and that was the conclusion he reached.

As the share of HEW's budget for education declines of necessity, and the health and welfare proportion continue their uncontrollable growth—presently $20 billion each year—then education will always take a back seat in HEW. The attention goes where the dollars go. Health and welfare programs are crisis-

I ask my colleagues to consider the Department of Defense as the best example. Ranking above the Secretaries of the Army, the Navy, and the Air Force are seven Assistant Secretaries, two Undersecretaries, and a Deputy Secretary of Defense.

Again, in DOD these officials make up the Office of the Secretary of Defense. Like HEW, the office is a conglomeration of normally faceless bueaucrats, another layer of bureaucracy separating the principal program officers from the Secretary. It breeds inefficiency, delay, and certainly much duplication.

This amendment could not solve this tremendous problem. No matter how hard you try, there will always be this additional set of layers in HEW.

The people in the Office of the HEW Secretary who sign off on education rules, regulations, budget, and legislative proposals are also the people who make health and welfare decisions. This breeds what many State and local officials call the "HEW mentality." Health and welfare programs are nationally focused. The Federal Government is the principal funding source. But in contrast, education is locally focused, and is principally funded by States and localities. This is a real conflict in missions at HEW.

Often, proposed rules and regulations giving much flexibility to States and localities in education are totally rewritten in the Office of the Secretary to be more stringent and inflexible. HEW is

> proposals to reorganize the education functions of the Federal Government, and we congratulate you on your efforts towards seeking to improve the present condition of American education.
>
> We have long recognized the need to reorganize the immense Department of Health, Education and Welfare (HEW) into manageable proportions, especially to give education the priority it deserves and to save controllable education budget functions from an otherwise uncontrollable health and welfare budget.
>
> Your support last year for a separate, Cabinet-level Department of Education was welcomed by educators and students across the country as a pledge that the Federal government would finally provide American education the direction and high priority it rightly deserves.
>
> A separate Department of Education would give education this badly needed attention by consolidating the entire Education Division of HEW and a number of education-related programs scattered throughout the Federal government into a single, effective framework. It would provide a sound organizational mechanism for education policy direction and leadership.
>
> The new Department's budget would be larger than that of the existing Departments of Interior, State, Justice, and Commerce, and the proposed Department of Energy.
>
> Strong support now exists for the concept of creating a separate Department. The bill we have introduced, S. 991, now has 45 sponsors.
>
> As you know, some thought has also been given to restructuring HEW internally and modeling it instead after the present structure of the Department of Defense, with its subcabinets and individual secretaries. However, after careful study, we believe this

oriented and demand constant attention from the HEW secretary.

Reorganizing HEW along the lines of the DOD model would not remedy this institutional defect. In fact, I think it is important to note that there already exists within HEW a sort of DOD model. Presently, there are Assistant Secretaries for Health, for Human Development (the welfare portion), and for Education. Education was "elevated" in the HEW structure in 1972 with the creation of the Assistant Secretary for Education. But nothing has changed. Education is still the stepchild in a department whose health and welfare expenditures account for nearly half the Federal budget.

The basic problem with the DOD model is that there would always exist yet another layer of bureaucracy on top of the primary sub-Cabinet officials. I am referring to the "Office of the Secretary" of HEW. In terms of staff, this office is one-third larger than the entire Education Division. Most of its efforts are directed toward managing the massive health and welfare programs.

The Office of the Secretary contains 11 principal officials—five of them assistant secretaries—who rank above the top health, education, and welfare officials. It is the Office that holds final sign-off authority on all rules, regulations, budget, and legislative proposals. It seriously diminishes accountability of education in HEW, because this final authority is not in the hands of the top education officials. Finding the individual responsible for a decision in the Office of the HEW Secretary is almost impossible.

trying to manage health and welfare programs which are riddled with fraud and abuse. So, harsher requirements are imposed for greater accountability. The trouble comes when these same individuals are reviewing educaton rules and regulations. The inflexibility carries over.

By separating education away from nationally focused health and welfare programs, we can better define Federal-State-local relationships in education. We can at least arrest Federal encroachment. We will drastically increase the acountability of our education officials, because they will be responsible for making the decisions. Education would be separated from HEW's national mindset.

The DOD model has proved unworkable in the past. There is little for me to believe, as a former HEW Secretary, that it would really change anything in HEW. The facts are otherwise.

Mr. President, in June 1977 Senators MAGNUSON, PELL, and myself wrote a letter to the Vice President outlining our reasons why an internal reorganization of HEW using the DOD model was a plausible alternative to the establishment of a separate Department of Education. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

June 14, 1977.

THE VICE PRESIDENT,
Old Executive Office Building,
Washington, D.C.

DEAR MR. VICE PRESIDENT: We know you are now in the process of considering several alternative would be unworkable when applied to the Department of Health, Education and Welfare.

Patterning HEW after the DOD subcabinet model would be little more than a simple facelift, and in the end, do much harm to the overall Federal education effort. Such a reorganization would drastically increase and centralize the HEW Secretary's powers and duties. A Secretary of Education within HEW would only serve as an Administrator—not a policymaker.

The education functions could even be further buried in unnecessary layers of bureaucracy. If the present Department of Defense organization is any indication of what we could expect, the Education "sub-secretary" would probably be relegated to a lower position within HEW, under as many as nine assistant secretaries and a deputy secretary in the Office of the Secretary.

Furthermore, the Education Division's budget would continue to be outnumbered, 18 to 1, by HEW's massive health and welfare program expenditures. The HEW Secretary, out of necessity, would continue to be preoccupied with pressing health and welfare concerns. Education would take a back seat, as it has always taken.

An Education Secretary, outside of the present HEW structure, would clearly have more access to the President, and his or her position alone would signify the importance this Administration attaches to the education of the 60 million persons enrolled in public and private education institutions today. Educators would see that they truly have a spokesperson at the highest levels of government, an individual in a position to give constructive policy input on the use of the more than $14 billion the Federal government spends on education every year.

We welcome your support of our efforts to create a Cabinet-level Department of Education. We plan to hold hearings on this issue in the very near future, and we stand ready to work with you on this important project.

Sincerely,

WARREN MAGNUSON,
ABE RIBICOFF,
CLAIBORNE PELL.

Mr. RIBICOFF. Health and welfare are important, and should have the undivided attention of a Cabinet secretary. So too are the education functions. Education is presently submerged four and five layers deep in the HEW bureaucracy. It is a function unique to the functions of all Federal agencies and departments—it cuts across all the others. Therefore, a Cabinet secretary for education should be in a better position to coordinate Federal education programs.

But no matter how high within HEW education is elevated, it will continue to suffer from neglect and undue interference and rigidity. I believe it is an institutional deficiency in our Federal structure that the three components—health, education, and welfare—are administered together in the same department. No other country in the world places the three together in the same department.

Consider that of all the nations in the world we are the only one that lumps these three functions together. And education is so important, because it is really basic to what happens to the country today and for the future. So, it seems to me that the suggestion of the Senator from Pennsylvania is basic to what we are trying to do.

Frankly, to adopt his amendment, for all practical purposes, would mean the sponsibility it would be to focus attention on the educational needs of the future citizens of this country, I think we, as a country and a Government, would place greater priority upon education.

Even though the Senator's amendment does increase the status of education and recognizes the problem with which we have been grappling—and I commend him for this, and the direction in which he is going is the right direction—I think that if we are going to do this job and reorganize the Federal education effort, it is the feeling of the Committee on Governmental Affairs that we ought to do it right, and not just reshuffle the boxes a little bit. This amendment would give slightly greater status to education, but it would still constitute a minute part of HEW's work, considering the overwhelming growth of the welfare and the health components of the Department.

Furthermore, the amendment simply would not adequately address one of the principal findings of the committee, which is that there are serious institutional deficiencies and problems within HEW that operate, and continue to operate, to the detriment of education. I believe that under the Schweiker amendment, they would continue to operate to the detriment of education.

Certainly, the amendment would not address the problem that many of us have recognized, which is that HEW is simply too large, contributing to inefficiencies in all of its component parts.

For this reason—believing that educa- we considered this new Department, three major programs have been deleted. But even worse is the fact that we have left out $12 billion worth of educational programs.

This $12 billion worth of educational programs is contained in the following Federal Departments and agencies: Department of Agriculture, the Department of Commerce, the Department of Defense, Department of HEW, with many programs still staying there; the Department of the Interior, the Department of Justice, the Department of Labor, Department of State, Department of Transportation, the Appalachian Regional Commission, the Energy Research and Development Administration, the General Services Administration, the Government Printing Office, the Library of Congress, the National Aeoronautics and Space Administration, all of the National Endowment for the Arts, which would be something normally associated with education; the National Endowment for the Humanities which, also would be associated with education; the whole National Science Foundation, which is based on education and research by educational institutions, some parts of the Community Services Administration, parts of the Smithsonian Institution, the Veterans' Administration, and the Environmental Protection Agency.

Mr. President, I ask unanimous consent to have printed in the RECORD this list so that I will not read it at this point.

There being no objection, the list was

defeat of this legislation, and the concern that so many Senators, so many who know education, who respect it and love it and realize its importance, feel that it is absolutely essential to have a Department of Education and not an internal reorganization of HEW.

On behalf of the committee and myself personally, I strongly oppose the amendment of the Senator from Pennsylvania.

I would be pleased to yield as much time as my distinguished colleague from Illinois requires.

Mr. PERCY. Mr. President, I would like to join the chairman of the committee in opposition to this amendment. I think what Senator SCHWEIKER has attempted to do, from his own experience with the Defense Department, is to reorganize HEW along the lines of the Defense Department.

In this case, I simply feel it would not work. There is no generic commonality between education and health and welfare. There was no real generic reason to bring health, education, and welfare together. They just happened to be grouped together in the original organization of the Department.

I think those of us who have followed educational matters closely feel that education has been, to a great extent, dwarfed in HEW. For example, it constitutes a minuscule part of HEW's budget, less than 6 percent.

The operation of the Department, from the top on through to the middle levels, simply does not provide for adequate time to education. Certainly if there were a Cabinet-level official whose re-
tion is one of the highest matters of priority the Nation should address now and that education in America is in trouble it needs to have top attention—I feel that the bill before us creating a Department of Education, removing education from HEW and allowing the remaining Department to concentrate upon the very significant and important problems of health and welfare, would be the best. For that reason I regretfully, but respectfully, will object to and vote against the Schweiker amendment.

Mr. SCHWEIKER. Mr. President, my concern here is that we say we are setting up a whole new Department of Education, and if we really achieve that goal then I could be very supportive and encouraged by that new opportunity. I think the committee report itself spells out why this has not happened. There are $27 billion worth of education programs and education-related research programs in Government today, $27 billion.

The Department of Education we are setting up has only $15 billion of these programs. So by the count of the Government Affairs Committee, we are barely putting half of the Federal educational programs in the new Department.

It does not make much sense to say we are setting up a whole new Department of Education, but then leave out some $12 billion of educational programs.

Since this bill came up last year three major programs have been dropped. Indian education, Head Start, and child nutrition now located in the Department of Agriculture. So just from the last time

ordered to be printed in the RECORD, as follows:

FEDERAL EDUCATION PROGRAMS AND ACTIVITIES ATTACHMENT 2: NOT TRANSFERRED BY S. 210

I. Education Programs listed in the Catalog of Federal Education Assistance Programs. (U.S. Office of Education 1978).

DEPARTMENT OF AGRICULTURE

School Breakfast Program.

Nonfood Assistance for School Food Service Programs.

National School Lunch Program.

Special Milk Program for Children.

Child Care Food Program.

Summer Food Service Program for Children.

National Agricultural Library Service.

DEPARTMENT OF COMMERCE

Importation of Duty-Free Educational and Science Materials.

Sea Grant Support.

State Marine Schools.

U.S. Merchant Marine Academy.

Calibration and Testing Services.

National Technical Information Service.

DEPARTMENT OF DEFENSE

Industrial Equipment Loans to Educational Institutions.

Civil Defense-Architect/Engineer Student Development.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Statistics Training and Technical Assistance.

Mental Health Training Grants.

Drug Abuse Demonstration Programs.

Family Planning Services-Training Grants and Contracts.

Occupational Safety and Health Training Grants.

Alcohol Research Development Awards.

Alcohol National Research Service Awards.

Alcohol Training Programs.

Drug Abuse Education Programs.

Drug Abuse Research Development Awards.

Drug Abuse National Research Service Awards.

Drug Abuse Training Programs.

Mental Health Research Development Awards.

Mental Health Research Service Award.

Public Health/National Health Service Corps Scholarship Program.

President's Council on Physical Fitness and Sports.

Comprehensive Hemophilia Diagnostic and Treatment Centers.

Nurse Practitioner Training Programs.

Advanced Nurse Training Programs.

Allied Health Professions-Special Project Grants.

Training in Expanded Auxiliary Management.

Continuing Dental Education Grant Program.

Biomedical Research Support.

Health Professions-Capitation Grants.

Nurse Training Improvement-Special Projects.

Nursing School Construction-Assistance-Direct Grants. Loan Guarantees and Interest Subsidies.

School of Public Health-Grants.

Biotechnology Research.

Minority Biomedical Support.

Family Medicine-Training Grants

Health Manpower Educating Initiative Awards.

Health Professions-Financial Distress Grants.

Health Professions-Special Project.

Health Professions-Start-Up Assistance.

Nursing Capitation Grants.

Cancer-Construction.

Cancer Research Manpower.

Child Development-Head Start.

Developmental Disabilities-Demonstration

Law Enforcement Assistance-Training.

Law Enforcement Assistance Administration-JJDP National Institute.

Corrections Training and Staff Development.

DEPARTMENT OF LABOR

Apprenticeship Outreach.

Apprenticeship Training.

Job Corps.

Employment and Training Research-Doctoral Dissertation Grants.

Employment and Training Institutional Grants.

DEPARTMENT OF STATE

Institutional Centers to Aid Foreign Development.

Eduactional Exchange-Graduate Students.

Educational Exchange-University Lecturers (Professors) and Research Scholars.

DEPARTMENT OF TRANSPORTATION

Coast Guard Cooperative Marine Sciences Program.

Aviation Education.

Urban Mass Transportation Grants for University Research and Training.

Urban Mass Transportation Managerial Training Grants.

APPALACHIAN REGIONAL COMMISSION

Appalachian Child Development.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Motion Picture Film Libraries.

Faculty and Student Participation-Laboratory Cooperative Program.

Faculty Training Institutes, Short Courses, and Workshops on Energy and Environmental Subjects.

Research Reactor and Materials Assistance.

Traineeships for Graduate Students in Engineering, Studies Related to Energy Conversion, Health and Safety, and Environ-

Promotion of the Arts-Theatre.

Promotion of the Arts-Expansion Arts.

Promotion of the Arts-Visual Arts.

Promotion of the Arts-Special Projects.

Promotion of the Arts-Museums.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Promotion of the Humanities-Media Grants.

Promotion of the Humanities-General Research Program.

Promotion of the Humanities-Fellowships and Stipends for the Professions.

Promotion of the Humanities-Education Pilot and Development Grants.

Promotion of the Humanities-Higher Education Projects.

Promotion of the Humanities—Public Program Development.

Promotion of the Humanities—Youth Programs.

Promotion of the Humanities—Summer Seminars for College Teachers.

Promotion of the Humanities—Cultural Institutions.

Promotion of the Humanities—Fellowships for Independent Study and Research.

Promotion of the Humanities—Fellowships in Residence for College Teachers.

Promotion of the Humanities—Humanities Institutes.

Promotion of the Humanities—Summer Stipends.

Promotion of the Humanities—Fellowships at Centers for Advanced Study.

Promotion of the Humanities—National Board of Consultants.

Promotion of the Humanities—Centers for Research.

Promotion of the Humanities—Interpretive Museum Exhibitions and Interpretive Programs.

Promotion of the Humanities—Research Materials.

Facilities and Training.

Special Programs for the Aging-Training.

Special Programs for the Aging-Multidisciplinary Centers of Gerontology.

Special Assistance to Refugees from Cambodia, Vietnam and Laos in the United States.

Public Assistance Training Grants-Title XX.

Minority Access to Research Careers.

DEPARTMENT OF THE INTERIOR

Indian Education-Adults.

Indian Education-Contracts with Indian Tribal Organizations.

Indian Employment Assistance.

Indian Education-Dormitory Operations.

Indian Education-Federal Schools.

Indian Education-Colleges and Universities.

Indian Property Acquisition-Transfer of Indian School Properties.

Indian Education-Assistance to Schools.

Facility School Construciton Planning and Equipping.

Mine Health and Safety Education Training.

Indian Arts and Crafts Development.

National Environmental Study Areas and National Environmental Education Development Programs.

Water Resources Research-Assistance to State Institutes.

Water Resources Research-Matching Grants to State Institutes.

Water Resources Scientific Information Center.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance-Narcotics and Dangerous Drugs-Training.

Public Education on Drug Abuse-Technical Assistance.

Desegregation of Public Education.

Citizenship Education and Training.

Law Enforcement Assistance-Educational Development.

mental Sciences and Engineering.

Used Nuclear-Type Equipment Grants.

Information Services-Exhibits, Public Speakers, Publications, Reference, and Analysis.

Citizens' Workshops.

GENERAL SERVICES ADMINISTRATION

National Archives Reference Services.

National Audiovisual Center.

Consumer Information Center.

GOVERNMENT PRINTING OFFICE

Depository Libraries for Government Publications.

LIBRARY OF CONGRESS

Books for the Blind and Physically Handicapped.

Distribution of Library of Congress Cataloging.

Library of Congress Photoduplication Service.

Library of Congress Publications.

Library of Congress References and Bibliographic Services.

Research and Referral Services in Science and Technology.

Reference and Consultation Services in Preservation, Restoration, and Protection of Library Materials.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Space Science Education Project.

Technology Utilization.

NATIONAL ENDOWMENT FOR THE ARTS

Promotion of the Arts-Architecture and Environmental Arts.

Promotion of the Arts-Dance.

Promotion of the Arts-Education.

Promotion of the Arts-Literature.

Promotion of the Arts-Music.

Promotion of the Arts-Public Media.

Promotion of the Arts-Federal-State Partnership.

Promotion of the Humanities—Elementary and Secondary Education Program.

NATIONAL SCIENCE FOUNDATION

Intergovernmental Program.

Science and Society Program.

Mathematical, and Physical Sciences and Engineering.

Astronomical, Atmospheric, Earth and Ocean Sciences.

Biological, Behavioral, and Social Sciences.

Science and Technology Policy Research and Analysis.

COMMUNITY SERVICES ADMINISTRATION

Community Action.

Summer Youth Recreational Program.

SMITHSONIAN INSTITUTION

Smithsonian Institution Programs in Basic Research and Public Education.

Academic Appointment.

Chesapeake Bay Center for Environmental Studies.

Educational Services—Elementary and Secondary Education.

International Exchange of Scientific and Literary Publications and Governmental Documents.

Museums—Assistance and Advice.

Smithsonian Science Information Exchange, Inc.

Smithsonian Institution Traveling Exhibition Service.

Smithsonian Special Foreign Currency Grants for Museum Programs, Scientific and Cultural Research and Related Educational Activities.

Smithsonian Tropical Research Institute.

Woodrow Wilson International Center for Scholars-Fellowships and Guest Scholar Programs.

VETERANS ADMINISTRATION

Education and Training of Health Service Personnel.

Grants to Affiliated Medical Schools—Assistance to Health Manpower Training Institutions.

Veterans Educational Assistance (G.I. Bill).

Vocational Rehabilitation for Disabled Veterans.

Dependents Educational Assistance.

Post-Vietnam Era Veterans' Educational Assistance Program.

ENVIRONMENTAL PROTECTION AGENCY

Air Pollution Control Fellowships.

Air Pollution Control Manpower Training Grants.

Solid Waste Disposal Training Grants.

Water Pollution Control-Professional Training Grants.

Water Pollution Control-Technical Training Grants.

Water Pollution Control Fellowships.

NATIONAL GALLERY OF ART

National Gallery of Art Extension Service.

ACTION

University Year for Action.

National Student Volunteer Program.

The Youth Challenge Program.

II. Federal Research and Development Activities conducted in Colleges and Universities as listed in Special Analysis, Budget Of The United States Government, Table L-4, (Office of Management and Budget, 1979).

III. Other Federal Programs and Activities related to Education.

DEPARTMENT OF DEFENSE

United States Military Academy.

United States Naval Academy.

United States Air Force Academy.

Civil Defense Staff College.

Civil Defense—Staff College-Student Expense Program.

Civil Defense University Extension.

Reserve Officers Training Corps. (ROTC).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dependent and Survivor's Benefits under Section 203(d) of the Social Security Act.

DEPARTMENT OF THE TREASURY

Tax Information and Education, Internal Revenue Service.

TABLE 1-4.—RESEARCH AND DEVELOPMENT SUPPORT TO UNIVERISITES AND COLLEGES[1]

[In millions of dollars][2]

Department or agency	Obligations			Outlays		
	1978 actual	1979 estimate	1980 estimate	1978 actual	1979 estimate	1980 estimat
Health, Education, and Welfare	1,705	1,993	2,001	1,595	1,720	1,931
(National Institutes of Health)	(1,492)	(1,737)	(1,747)	(1,398)	(1,528)	(1,686)
National Science Foundation	551	604	681	508	563	631
Defense—military functions	308	331	372	294	317	359
Energy	232	238	251	225	238	250
Agriculture	173	210	218	156	177	179
National Aeronautics and Space Administration	130	145	151	132	131	136

Department or agency	Obligations			Outlays		
	1978 actual	1979 estimate	1980 estimate	1978 actual	1979 estimate	1980 estimate
Agency for International Development	24	48	66	15	22	31
Environmental Protection Agency	43	47	49	30	38	43
Interior	35	40	42	32	36	39
Commerce	34	39	37	34	39	37
Transportation	15	21	21	15	19	19
All other[3]	37	39	39	33	33	38
Total	3,285	3,755	3,927	3,067	3,358	3,692

[1] Summarizes Federal R. & D. support at universities and colleges by agency.

[2] Amounts reported in this table are included in totals for conduct of R. & D.

[3] Includes the Departments of Justice, Labor, State, Treasury and Housing and Urban Development, the Corps of Engineers, the Arms Control and Disarmament Agency, the Consumers Product Safety Commission, the Smithsonian Institution, the Veterans Administration, and the Nuclear Regulatory Commission.

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Mr. SCHWEIKER. So we are deluding ourselves when we say we are setting up a whole new Department of Education and then we leave $12 billion worth of Foundation and the National Endowment for the Arts and the National Endowment for the Humanities, and the whole veterans' education, the GI bill HEW, one Under Secretary for Health and Welfare and one an Under Secretary for Education.

That means that education would have

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research agency in the Government, within that division. It would also have, educational research and development, policy analysis, administration of the funds for the improvement of postsecondary education, the National Center for Educational Statistics and Evaluation. Then a fourth Assistant Secretary for Education would be responsible for administering the other miscellaneous educational programs which do not fit into one of these three broad categories.

As I say, I think this is a logical approach, recognizing the fact that in S. 210 we are really not creating one whole Department of Education, we are creating one-half a Department of Education and calling it a whole department, we leave $12 billion worth of educational funding programs scattered throughout the Federal Government.

We are going to pay a price for that, because we know that every new Department has a lot of changes and personnel and other things that go with it, and yet we will not get what we want, which is basically a better organized streamlined department. Why not make the best of what we have, which is to take what is presently in HEW, elevate its status, have an undersecretary for health and an undersecretary for education, give them equal treatment, and then have four assistant secretaries for education?

I think, Mr. President, that makes a lot more sense, in view of the political realities that keep us from getting a Senator DeConcini here, and also to make sure that that time would meet with Senator Byrd's approval.

Mr. SCHWEIKER. Can we set a time certain for 12?

Mr. RIBICOFF. For 12 o'clock, subject to the approval of the majority leader.

Mr. SCHWEIKER. All right.

Mr. RIBICOFF. Mr. President, I ask unanimous consent, subject to the approval of the majority leader, that the vote on the Schweiker amendment occur at 12 o'clock noon.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Connecticut? Without objection, it is so ordered. There will be a yea-or-nay vote at 12 o'clock on the Schweiker amendment.

Mr. RIBICOFF. Mr. President, I think Senator DeConcini, under the unanimous-consent agreement, has the next amendment to be considered. I suggest the absence of a quorum while we call for Senator DeConcini.

The ACTING PRESIDENT pro tempore. Against whose time does the Senator wish the quorum call to be counted?

Mr. RIBICOFF. There is no objection to having it count equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, the time for the quorum call will be counted evenly against both sides on the bill. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll; whereupon, at 11:53 a.m., the Senate reassembled when called to order by the Presiding Officer (Mr. Zorinsky).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the hour of 12 o'clock having arrived, the vote will occur on amendment 139, offered by the Senator from Pennsylvania (Mr. Schweiker). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Rhode Island (Mr. Pell), the Senator from Maryland (Mr. Sarbanes), and the Senator from Tennessee (Mr. Sasser) are necessarily absent.

I further announce that the Senator from Maine (Mr. Muskie) is absent on official business.

I further announce that, if present and

whole Department of Education. This is a logical, rational, efficient, cost-effective way to give higher status and higher recognition to education.

Mr. President, I am prepared to either let the opposition speak again, or yield back the remainder of my time, whatever they would like to do.

Mr. RIBICOFF. Mr. President, I do not believe there are any further requests for time on this side, and I would be willing to yield back the remainder of my time, too. If the Senator yields back the remainder of his time, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I understand there has been a yea or nay vote ordered for later on, on my amendment; is that right?

The ACTING PRESIDENT pro tempore. A yea or nay vote has been ordered.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time. I understood from the comments that Senator BYRD made last Thursday that in any event no votes would occur before 12 o'clock today. I think he assured Members of the Senate to that effect.

The ACTING PRESIDENT pro tempore. An informal agreement to that effect has been entered into.

Mr. RIBICOFF. I think, Mr. President, that that should be respected.

Mr. PERCY. Mr. President, would it be possible to set a time certain, then, for this first vote at 12 o'clock?

Mr. RIBICOFF. I would want the majority leader to pass on that. I think that was his intention, and we could suggest the absence of a quorum to get

ceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business and that Senators might be allowed to speak for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF EDUCATION

The Senate continued with the consideration of S. 210.

Mr. ROBERT C. BYRD. Mr. President, we are back on the Department of Education bill?

The PRESIDING OFFICER. The Senator is correct.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 11:38 a.m., recessed for 15 minutes;

voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Tennessee (Mr. SASSER) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER (Mr. DECONCINI). Are there any Senators who have not voted?

The result was announced—yeas 26, nays 58, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—26

Armstrong
Byrd,
  Harry F., Jr.
Cohen
Dole
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Humphrey
Javits
Jepsen
Kassebaum
Lugar
McClure
Morgan
Moynihan
Proxmire
Schmitt
Schweiker
Simpson
Tower
Warner
Zorinsky

NAYS—58

Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Ford
Glenn
Hart
Hatfield
Heinz
Hollings
Huddleston
Jackson
Johnston
Leahy
Levin
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Nelson
Nunn
Packwood
Percy

Pryor
Randolph
Ribicoff
Riegle
Roth
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Weicker
Williams
Young

NOT VOTING—16

Bayh
Biden
Durkin
Gravel
Inouye
Kennedy
Laxalt
Long
Mathias
Muskie
Pell
Pressler
Sarbanes
Sasser
Stafford
Wallop

So Mr. SCHWEIKER's amendment (No. 139) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Arizona (Mr. DECONCINI) is recognized to call up an amendment on which there is a limitation of 1 hour.

Mr. DECONCINI. Mr. President, I ask unanimous consent that I may yield the floor so that the Senator from Idaho may call up an amendment, without the separate Department of Education, but before I describe and discuss these amendments let me make clear I fully support the notion that education needs to be afforded a better place in our system of government. It has, in fact, been buried in the vast department of HEW, and some reorganization is clearly called for. But it is also clear the Federal role in education must be a limited one, since the principle of local control of education it at at the heart of our system, is one of its strengths, and is worthy of preservation.

The amendments that I offer today are intended to make clear that the responsibility for public education under our Federal system rests first and foremost with the States and with local units of government. Federal aid to education is a fact but is only legitimate insofar as it supplements local responsibility and authority, not supplants it. Each of my amendments addresses relatively minor points, but which are in my judgment in need of clarification.

The first amendment merely adds the word "its" to make clear it is the Federal Government's education activities and programs which the Department of Education is empowered to coordinate, not those of individual school districts.

The next amendment makes clear that the Federal Interagency Committee on Education shall not function to establish a Federal policy for education in general but rather that it should involve itself in setting out the departmental policy for education only, directed toward

Mr. PERCY. I move to lay to motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 142

(Purpose: To establish an Office of Bilingual Education in the Department)

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I call up my amendment No. 142.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself and Mr. DOMENICI, proposes amendment numbered 142.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, between lines 4 and 5, insert the following:

"(F) an Assistant Secretary for Bilingual Education;".

On page 81, line 5, strike out "(F)" and insert "(G)".

On page 81, line 6, strike out "(G)" and insert "(H)".

On page 81, line 7, strike out "(H)" and insert "(I)".

On page 81, line 8, strike out "(I)" and insert "(J)".

On page 81, line 24, strike out "(G)" and insert "(H)".

On page 88, between lines 17 and 18, insert the following:

"OFFICE OF BILINGUAL EDUCATION

programs out.

You do not have to be a mathematical genius to figure out that we are leaving out almost 50 percent of the educational programs in the Federal Government.

That is a sad commentary on the real feeling of people toward the new Department. We are doing it for political reasons, we all know that. The managers of S. 210 are leaving out the programs because if they tried to get those other things into this new Department of Education, the Senate would have trouble passing the bill. Nobody wants to give up his own turf. That is one of the troubles around Washington. Everybody wants to keep his own little kingdom. He does not want to give it up. He wants it in his department, and that is what we are running into here when we have $12 billion worth of educational programs left out. That is exactly why in the time since this bill was brought up last year Indian education, Head Start, and child nutrition were dropped. The politics are such that the Government Affairs Committee did not want to invade the turf of the educational bureaucracies in Washington.

That is a poor way to organize a department. That is a poor way to say that we are going to have a good Educational Department but we are not going to put $12 billion worth of educational programs into it. It is a poor way to say that we are going to have one unified approach to administration of Federal education programs and we are going to really save a lot of money because we are going to consolidate. I sketched some big programs left out, the National Science education programs. Many of these programs and others are left out because supporters of S. 210 do not want to get the political votes against their transfers because of the fear that the whole bill might be defeated.

So the reality is that we are not really creating a whole new Department of Education; we are taking half a Department of Education from HEW, and calling it the Department of Education.

The whole point of my amendment is that if we are really creating but half a Department of Education, let us have the courage to acknowledge that, and do something else that makes sense. I think my amendment does make sense, because it says, "we can't make a whole Department because all the other agencies, and constituencies, the GI bill, the National Science Foundation, and the Endowments for the Arts and Humanities, do not want to give up their programs." So let us do the next best thing, the logical thing, let us put education into an elevated status within HEW; the half of the educational programs that are in HEW now, we will elevate and make equal with health programs, so that there will be equal treatment between health and education in HEW.

Instead of creating a whole new bureaucracy, we will logically restructure the bureaucracy we have to give education a higher status, as it should have, and also streamline the half of the educational programs that are in the Department of HEW now.

That is in essence what the Schweiker amendment does. It creates two Under Secretaries within the Department of equal status with health and welfare. Education programs are elevated to the point where they have the same recognition, the same consideration, the same status, the lack of which has until now been one of the legitimate criticisms about education in HEW.

It is said that education has been buried. With HEW Education programs have had confused leadership, because we had a Commissioner of Education and we had an Assistant Secretary of Education, and we were really never quite sure who was running educational policy. That is changed by my amendment. We no longer have the Commissioner of Education or an Assistant Secretary for Education; we have this one unit structure, in the Under Secretary, and under this structure we would have four Assistant Secretaries for Education. Those four are, first, an Assistant Secretary for Elementary and Secondary Education—that is a rather logical division—for grades 12 and below. Under him would come seven functions: School improvement, handicapped and occupational education, adult education, compensatory education, bilingual education, overseas dependents' schools, and State and local programs.

The second Assistant Secretary would be for Post Secondary and Continuing Education, which would be responsible for programs relating to postsecondary education and international education.

Then a third Assistant Secretary for Research and Improvement; and that also is a logical way to group things. Here we put the National Institute of Education, which is the primary educational time being taken from my amendment.

Mr. McCLURE. And with the understanding that the Senator from Arizona will be recognized following the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

UP AMENDMENT NO. 107

Mr. McCLURE. Mr. President, I have two amendments which I send to the desk, and I ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendments numbered 107.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 96, line 16, after the word "programs" add the following:

"In carrying out its role of assisting State and local governments in their responsibility for education."

On page 76, line 12 after the word "coordinate" insert "its".

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, these two amendments to the bill would create carrying out its role of assisting State and local governments in their responsibility for education.

In my judgment, these amendments are necessary to properly describe the intended purpose and function of the Department of Education as I understand it. I urge my colleagues to consider them favorably.

Mr. President, I have consulted with the majority and the minority in regard to these amendments, and they have indicated that they are willing to accept both.

Mr. RIBICOFF. Mr. President, the amendments of the senior Senator from Idaho are acceptable to the manager of the bill.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

Mr. PERCY. Does this amendment supplement the amendment of the Senator from South Carolina (Mr. THURMOND)?

Mr. McCLURE. The second one does add, at the end, some language to the language which the Senator from South Dakota added. The other one is at another point in the bill.

Mr. PERCY. I thank the Senator. The amendment is acceptable.

Mr. McCLURE. I thank the Senator from Illinois.

The PRESIDING OFFICER. The question is on agreeing to the amendment en bloc.

The amendment were agreed to en bloc.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

"SEC. 211. There is established in the Department an Office of Bilingual Education, to be administered by the Assistant Secretary for Bilingual Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Bilingual Education all functions transferred to the Secretary relating to title VII of the Elementary and Secondary Education Act of 1965 and any other bilingual education program. The Assistant Secretary for Bilingual Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.".

On page 88, line 19, strike out "SEC. 211." and insert "SEC. 212.".

On page 89, line 2, strike out "SEC. 212." and insert "SEC. 213.".

On page 90, line 13, strike out "SEC. 213." and insert "SEC. 214.".

On page 95, line 22, strike out "SEC. 214." and insert "SEC. 215.".

On page 118, strike out line 7.

On page 118, line 8, strike out "(B)" and insert "(A)".

On page 118, line 9, strike out "(C)" and insert "(B)".

On page 118, line 10, strike out "(D)" and insert "(C)".

On page 118, line 11, strike out "(E)" and insert "(D)".

On page 118, line 12, strike out "(F)" and insert "(E)".

On page 118, line 13, strike out "(G)" and insert "(F)".

On page 118, line 14, strike out "(H)" and insert "(G)".

On page 118, line 15, strike out "(I)" and insert "(H)".

On page 118, line 16, strike out "(J)" and insert "(I)".

On page 118, line 17, strike out "(K)" and insert "(J)"..

On page 118, line 18, strike out "(L)" and insert "(K)".

On page 118, line 19, strike out "(M)" and insert "(L)".

On page 72, in the table of contents, renumber the items relating to sections 211 through 214 as the items relating to sections 212 through 215, respectively, and insert immediately after the item relating to section 210 the following:

"Sec. 211. Office of Bilingual Education.".

Mr. DECONCINI. Mr. President, I ask unanimous consent that the modification I send to the desk at this time be agreed to. This modifies only by striking out "(6)" on page 138, line 9, of the bill, and inserting "(7)."

The PRESIDING OFFICER. Without objection, the modification is agreed to.

The modification is as follows:

On page 3, between lines 9 and 10 add the following new sentence:

"On page 139, line 9 strike out '(6)' and insert in lieu thereof '(7).' "

Mr. DECONCINI. Mr. President, Senator DOMENICI is a cosponsor of this amendment. I ask unanimous consent that the name of the Senator from Florida (Mr. STONE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, will the Senator add my name as a cosponsor?

Mr. DECONCINI. Yes.

Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. MATSUNAGA) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, this imperative that coordination be institutionalized.

An Assistant Secretary for Bilingual Education would insure more ready access to the centers of departmental decisionmaking and make unmistakable the congressional commitment to a strong, effective, and vital bilingual program.

Mr. President, this amendment is supported by a multitude of Hispanic groups throughout the country, including the Mexican-American Legal Defense and Education Fund, the Mexican-American Women's National Association, and others.

The list of organizations supporting Assistant Secretary for Bilingual Educational amendment are as follows:

ASPIRA of America.

El Congreso Nacional De Asuntos Colegiales.

League of United Latin American Citizens (LULAC).

Mexican-American Legal Defense and Education Fund.

Mexican-American Women's National Association.

National Association for Equal Educational Opportunity.

National Council De La Raza.

National IMAGE Incorporated.

National Association for Bilingual Education (NABE)

Puerto Rican Legal Defense and Education Fund Incorporated.

Secretariat for Hispanic Affairs.

U.S. Catholic Conference.

Association of Mexican-American Educators—Tucson Chapter.

National Association of Cuban-American and Secondary Education. The committee report recommends the Secretary of Education establish an Office of Citizen, Parent, and Student Concern, and that it give attention to the needs of Hispanic people.

The Office of Bilingual Education proposed by the amendment would be a very small principal office in the Department, compared with other principal offices.

Further, bilingual education concerns all levels of education, and as such should be a major emphasis of every principal office in the Department of Education. The goal of bilingual education is to educate non-English speaking people so as to assist them in better entering the mainstream of American education and society.

Mr. President, I hope the Senate will concur with the recommendation of the Governmental Affairs Committee that the structure of the new Department be as streamlined as possible, and not determined by individual categorical programs.

The concern is that this type of an amendment with the creation of an Assistant Secretary will enlarge the bureaucracy in the Department. It would be a burgeoning bureaucracy which we are trying to eliminate.

For those reasons, I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

amendment would create an Assistant Secretary for Bilingual Education. The Assistant Secretary would administer the Office of Bilingual Education, which already is in existence and is being transferred to the new Department of Education.

Further, the Assistant Secretary for Bilingual Education would be in a position to coordinate other bilingual education programs within the Department of Education.

Title VII of the Elementary and Secondary Education Act is the largest single Federal bilingual education effort in terms of funding and range of activities and is administered by the Office of Bilingual Education. Additionally, there are over 10 federally funded programs which incorporate bilingual education activities in their structure, such as adult education and vocational education. Together these programs serve the needs of children and adults who speak more than 70 non-English languages. In order of numerical significance, the largest language groups are those who speak Spanish, Asian languages, and native American languages.

Establishing a high-level position in bilingual education will help to provide a coordinated Federal effort in the delivery of programs which are supportive of the Office of Civil Rights enforcement of title VI of the Civil Rights Act of 1964. This legislation, together with the Lau against Nichols decision of the U.S. Supreme Court, has increased the need for effective implementation of bilingual education and similar programs. Because up to 3,400,000 school-age children could be helped by bilingual programs, it is

Women, Incorporated.

United Farm Workers (UFW)

American GI Forum Education Foundation.

National Alliance of Spanish Speaking People for Equality, Incorporated.

United Latin American Action Institute.

COSSMHO.

Cuban National Planning Council.

Mr. President, that is all I have to say at this time

Mr. RIBICOFF. Mr. President, I oppose this amendment.

I am a strong supporter of bilingual education programs. The new Department of Education will contain many important and effective programs, but bilingual education will be one of its most important functions.

The Governmental Affairs Committee went to great lengths to organize the Department of Education around the naturally broad functions of Federal education programs—elementary and secondary education, postsecondary education, special education and rehabilitative services, research and improvement, and occupational, adult, and community education.

The committee found that the very problem with the existing structure of education in HEW is that it is centered around the 40 or so categorical programs. Each now has its own office, its own niche, its own principal officer. This creates a confusing, scattered, and unmanageable situation.

Bilingual education will continue to be an important Federal program. An Office for Bilingual Education is already mandated by law and will probably be contained within the Office of Elementary

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield to the Senator from Hawaii 3 minutes.

Mr. MATSUNAGA. Mr. President, I appreciate the Senator yielding.

I have some concern, being from the State of Hawaii, where many of the students are multilingual, multilingual in the sense that we have new immigrants with children who speak the Filipino language, the Chinese language, the Japanese language, the Korean language, et cetera. They are mostly from the Asian nations.

I note that the Senator used the term the Assistant Secretary for Bilingual Education rather than multilingual. I am concerned that it may mean just one language in a State.

Will the Senator clarify what the intent of his amendment is?

Mr. DECONCINI. Yes, indeed. I will.

Title VII of the Elementary and Secondary Education Act has the major Federal bilingual education effort within it. This includes some 70 different languages, and I address the question to the chairman of the committee if he will underline for my purposes that the word "bilingual" in the existing law and under this act will include all languages that the programs are set up for. Is that correct?

Mr. RIBICOFF. That is my interpretation. Certainly when you use the word "bilingual" you are not confining it only to two languages. By all means, the situation as explained so well by the distinguished Senator from Hawaii is understandable. There could be people who speak three or four languages, and it is my interpretattion that it will encompass an arrangement in the school district where a student will be speaking more than one language and facilitate utilization of those various language tools.

Mr. DECONCINI. I thank the chairman and I hope that will put the Senator from Hawaii at ease that bilingual education is not limited to one single language other than the English language.

Mr. MATSUNAGA. I appreciate the clarification of the Senator.

I rise in support of the amendment for the reason that the bilingual program has worked very well, not only in Hawaii, but throughout the entire United States wherever the program has been adopted, and the amendment emphasizes the importance of the program and a recognition of its success.

I urge my colleagues to support the amendment.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I certainly commend my distinguished colleague, Senator DECONCINI, for drawing attention to a very important aspect of education.

It is important in many areas of our country where we have a large number of people with limited English-speaking bilingual education programs with the other elementary and secondary education programs in an office for elementary and secondary education as provided for in this bill.

The Senator from Illinois has no objection to having an office having a particular responsibility for minority interests, minority affairs, and certainly I would like to see considerable emphasis placed upon bilingual education. But I think if we started structurally to do this for bilingual education, then we might have an assistant secretary, as has been suggested, for nonpublic education; an assistant secretary for rural education, an assistant secretary for Indian education, an assistant secretary for student financial aid, as has been suggested; an assistant secretary for library resources, an assistant secretary for teacher training, and an assistant secretary for followthrough, and you can just go on ad infinitum, and all of a sudden we are starting to create and build a huge bureaucracy. That is what we have really pledged many Members of this body would not be the intent, the purpose, and the framework of the Department of Education.

So, with the express hope that bilingual education will receive very high priority, because it is an important element of particularly our primary and secondary educational efforts in this country, I would be required to oppose the amendment as it now stands.

Mr. DANFORTH. Mr. President, will the Senator yield?

a separate office or a separate assistant secretary of bilingual education is that it connotes, at least in the mind of this Senator, a recognition of a cultural fragmentation within the United States which we wish to perpetuate, an elevation of the continuation of a multicultural, multilanguage country, and that is the sum total of my problem with it.

I have confidence in the judgment of the chairman and the ranking members of the Governmental Affairs Committee, and I have confidence in the National Governors Association and the Education Commission of the States with respect to the effect of this amendment on the structure of the bureaucracy.

But what I am particularly concerned about is that in voting on what appears on the surface to be simply a structural question within the Department of Education we, in the Senate, would appear to give our imprimatur to the notion that cultural fragmentation is something which should be perpetuated and something which should be encouraged in our public schools. That is something which I question and, in fact, oppose.

Mr. DECONCINI. Mr. President, in response to the Senator from Missouri for just a couple of minutes, let me point out that what the Senator said is partially correct, that the purpose of the bilingual program is to integrate into the system children who are not fluent in the English language. It takes a deep commitment and a tremendous amount of expense, and that is why the law is set up as it is.

ability. Certainly, I can speak with strong feeling because the State of Illinois probably has upwards of 600,000 people now of Spanish-speaking origin, and, without a knowledge of English, the difficulty of their entry into school has been very great.

It is the fastest growing ethnic group in our State. I have fought very hard for additional funds to assist these young people, and have always felt that California, Texas, and a few other States have had a disproportionate share of those funds.

But, as much as I would like to see greater attention devoted to it, I think it is possible in a different way, a way that would not present the problems that the pending amendment would present.

This amendment is a revision to the categorical-type approach which we have been trying to get awayg from in education programs.

By creating generic classifications—that is, elementary, secondary education, post secondary education, and so forth—we can deal with the problem in that way rather than the categorical way that has been the pattern of the past and which has created such a hodge-podge of Federal programs.

Such an organizational structure would assist the Department to achieve the desired goals of consolidating education programs.

I think, therefore, from a simply organizational standpoint it would be better to keep the bill as it now stands.

Optimum efficiency would be better achieved by placing responsibility for

Mr. RIBICOFF. I yield as much time as the Senator may require.

Mr. DANFORTH. Mr. President, I hasten to say at the outset that I do not have any expertise in the area of bilingual education. I think Senator RIBICOFF and Senator PERCY have had the opportunity to focus their attention on the question of the proper organization of the Department of Education and what makes sense from an organizational standpoint.

It is my understanding that the National Governors Association and the Education Commission of the States have opposed this kind of administrative fragmentation which is represented by this particular amendment.

But I just wanted to state my concern for another type of fragmentation which, I think, is more important than administrative fragmentation. My understanding of bilingual education is that children who come into the school, people who come into the school system, who do not know the English language have the opportunity to learn to read and write English so that they can be integrated into the mainstream of American life; that the purpose of bilingual education is not to set up a separate cultural system within the United States, but is instead to provide a means by which people from other cultures, from other countries, speaking other languages, can come into this country with the wealth of their heritage and participate in full citizenship and in full sharing of what we have in the United States of America.

My concern with the establishment of

Let me just point out a few figures here for you. There are five States that have over 20 percent of their population of non-English background: Arizona, California, Hawaii, Texas, and New Mexico, Hawaii having 26 percent, and New Mexico 49 percent.

There are an additional 12 other States that have populations of over 100,000 of non-English background. Those are: Massachusetts with 109,000, New Jersey with 180,200, New York 758,000, Pennsylvania 140,000, Florida 194,000, Louisiana with 140,000, Illinois with 223,000, Ohio with 140,000, Arizona with 161,000, California with 1,105,000, Nevada with 154,000, and Texas with 864,000 non-English background population.

The purpose is to integrate them into the English-speaking language and into our society. But to do so you have to have a good program, one that is committed to addressing the child's needs so that they are not set back by the fact that they do not speak the English language.

The purpose of this amendment is to put forth in congressional action today, hopefully, a real commitment to do that, not to set up different cultural structures that are going to exist through the rest of their lives, but to be certain that there is a commitment by this Government to see that these people are integrated, that they have the special programs. It is important enough, based on these figures and the success of the programs in the past, to make it a special office or an assistant secretary.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from Arizona. I will not take long.

Might I first ask unanimous consent that Barbara Anderson of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, as cosponsor of Senator DECONCINI's amendment No. 142 that seeks to establish an Assistant Secretary for Bilingual Education I would like to add a few salient points.

Free public education in this country as provided through a combined local, State, and Federal effort is perhaps the most important single domestic program in the country.

Education accounts for approximately one-fourth of all Government spending if you combine Federal, State, and local sources. Thus, education is a major enterprise in this country. It is built around a complex relationship between local, State, and Federal governments. While basic education programs are primarily a State and local responsibility, the Federal Government has in recent years assumed a significant role.

Mr. President, children in the United States are entitled to a free public education. For those children who do not speak English or who have limited English proficiency, the public education program needs to include the teaching of English as a second language and bilingual instruction in other subjects in order to allow children to progress through the educational system while of title VII—bilingual education program. The studies to date draw mixed conclusions as to the effectiveness of the program. Some assessments detect little or no impact on student achievement in math and reading while others have discovered considerable gains in reading and math scores along with a reduction in absenteeism among program participants.

The size of the target population, the severity of the educational problems in question, and, above all, simple social justice combine to make it imperative for us to improve and refine the performance of bilingual programs. Those approaches and concepts that show promise should be retained and expanded while those which cannot withstand impartial appraisal should be discarded.

An important component in the effort to improve bilingual instruction for our children should be the elevation of the Office of Bilingual Education within the new Department of Education.

I am in total agreement with my colleague, the Senator from Arizona, (Mr. DECONCINI), that an Assistant Secretary for Bilingual Education would strengthen the institutional position of the bilingual programs within the new Department of Education and, at the same time, facilitate better coordination between the Office of Bilingual Education and other major organizational elements. It would insure administrative oversight of the Federal funding commitment and integrate bilingual concepts into the overall educational process.

facts are that we have a strong, expensive, ever-increasing commitment to bilingual education. All we have to do is read the facts. It started off as a very small program. I do not believe the Senator is suggesting it should remain as such: $7 or $8 million a year. Is has grown to over $200 million.

The facts are that a bilingual education program is a difficult program to administer, a difficult program to gather facts on, a difficult program in which to train those who are to teach under it.

Therefore, my support is principally based on the proposition that it is here to stay, it is needed as much now as when it was started, if not more so, and that the only way to truly indicate to the new Department of Education in a meaningful way that we really want them to do a better job in a very difficult area, to get some answers more quickly out into the field, to have less flexibility when they make decisions, changing them every other year, we have to put somebody in this new department as high as an assistant secretary who is in charge of seeing to it that this very important program be administered with the kind of policy attention that a bilateral education program deserves and must have.

I know that the new Secretary of Education, if this Department becomes a reality, will come forth and tell the Human Resources and Appropriations Committees, "Oh, we are going to do a better job with bilingual education. We are going to get the answers; we are going to make decisions with a little more they learn and improve their skills in English.

According to the current estimates. there are close to 15 million persons in the United States for whom English is the second language—3.6 million of which are school age. A large portion of these limited English-speaking persons are of Spanish-speaking backgrounds. Data gathered on Spanish-speaking schoolage children show that their enrollment rates are lower, in all grades, than English-speaking students. Hispanics are less like than either whites or blacks to be enrolled in postsecondary education. Most students who live in households where a language other than English is spoken are behind in the grade level expected for their age. In addition, when compared with children with English language backgrounds, the dropout rate for the Hispanics is 4.5 times higher; the rate for other non-English-speaking children is three times higher. These glaring examples demonstrate that limited English-speaking students are not faring well in our educational system. To address this problem and to assist the State and local governments in providing adequate educational programs for the limited English speaking, the Federal Government has taken an active part in financing bilingual education.

Since 1969, Federal assistance to bilingual education programs has increased from $7.5 to $135 million. By fiscal year 1978, the title VII program had grown to include 565 projects reaching close to 300,000 children.

The success of the Federal bilingual effort has been evaluated in the context

Mr. President. I believe this amendment would significantly strengthen the proposed Department of Education and help it to better address one of the pressing needs in American education today. I would urge my colleagues to give this amendment their full support.

Mr. President, I do not think we have to engage in substantive argument with the distinguished Senator from Missouri. I think his concern about cultural disparity being perpetuated through bilingual education could indeed take a couple of days. I might disagree with him, but I do not think one has to disagree with him in order to be for the DeConcini-Domenici amendment.

I would just say that it appears to me that cultural disparity in this country, as shown by the preservation of many of the habits, customs, and indeed, I say to my good friend, the languages of foreigners who have been privileged to come to this country, might well be a strength rather than a weakness, as suggested by the Senator from Missiouri. In fact I travel this country, I find a resurgence of a desire to perpetuate cultural traditions and habits, including languages, not only in New Mexico for Hispanics, but in Connecticut for Italians, for example, or in Pennslyvania for Germans.

The perpetuation of their language as a part of their culture just means this country is strong enough that we do not want everybody to sing the same tune, or necessarily to speak only one language. Rather the strength is in optimum opportunities, not maximum assimilation of a culture.

Having said that, let me say that the concern about what delay does out in the field; we are going to try to establish some multiyear goals." But the truth of the matter is that they have not done it up to this point, and I am very doubtful whether they will do it in a new Department, without some very definite policy and administrative focal point.

Therefore, I hope the Senate will indicate to the department, by passing the amendment, what the Senator from Arizona and I think is necessary, establishing not only in name an Office of Bilingual Education, but with an Assistant Secretary charged with doing what I feel is necessary and what I am sure the educators across the country feel is necessary, that is not now being done.

I thank the Senator from Arizona for yielding me some time on our amendment.

Mr. DANFORTH. Mr. President, responding briefly to my really good friend from New Mexico, I have to say that I am what I guess is becoming a type of endangered species, perhaps: I am an old fashioned integrationist. I believe in it. I believe that we are one people in this country.

That does not mean we are just an amalgam. People came to America from all parts of the world. They came here with different traditions, and they brought a lot to this country.

But I think the point of the public schools has always been to try to integrate the various strains of American life, to try to weave these various threads together into a whole cloth, into a pattern which we call America.

ica. The point of the public schools has never been, to my knowledge, to perpetuate the differences or to lead to a continuation of the kind of total distinction which was true before the people ever arrived on our shores in the first place. I believe that is what the public schools have been all about.

In considering public education, my position is very simple. When the Supreme Court decided the case of Plessy against Ferguson, and said "separate but equal if possible," I think the Supreme Court was wrong. When the Supreme Court, in deciding the case of Brown against Board of Education, decided that "separate but equal" is not possible, but is inherently wrong, I think the Supreme Court of the United States was correct. I think that Brown against Board of Education was a major breakthrough for our country, not just for what it did for black Americans by moving toward according them first-class citizenship in American life, but for the underlying recognition that we are all Americans, no matter what our color, no matter what country we came from, no matter what language we spoke when we arrived.

I think that the problem with this amendment as I understand it is that it considers language groups and cultural and racial groups as entities to be treated separately, and to be treated separately in perpetuity. That, to me, is the symbolic nature of what is involved here.

I recognize that this bill, the Department of Education bill, is to be purely a education, and whether or not the Senator from Missouri is for it, I say to my good friend, America has a policy in the Bilingual Education Act, and funded quite heavily by the Appropriations Committee, to move in the direction of making education more advantageous, more apt to succeed, for minorities, especially Hispanics under the Bilingual Acts.

They are not going to go away simply because we are reorganizing here. Quite to the contrary, they still have a few more years of authority in them and are getting a stronger commitment. The Senator's argument is an argument when we have that bill on the floor perhaps to do away with it. But I say we are doing a poor job of administering that rather large program with great constituency needs, great educational needs.

Our amendment gives it a better chance of working with the $200 million plus that we are going to spend.

I say to my good friend I believe there is little difference in our philosophy and approach, but in this case it seems to me if we are going to have this major program we need a better management tool than merely an office with no policy, no focal point, no decisionmaking capacity. I thank the Senator for yielding.

The PRESIDING OFFICER (Mr. Bradley). The Senator from Illinois.

Mr. PERCY. Mr. President, I think my distinguished colleague from Missouri makes a good point. I would like to put cation lost, but I think the Senator from Missouri has an extraordinarily good point. We do not want to set up an organizational structure that will encourage someone not becoming an integrated part of American life, which means being able to speak with, converge with, hold job with, and be a part of the rest of American society, most of which speaks the English language.

If we could have some assurance that there would be legislative history established, that this office is important and is a matter of high priority, it should not be summarily disbanded, I think that might help, and I think our distinguished colleague from Arizona would have made a major contribution along with Senator DeConcini in pointing out the importance of this particular aspect of the Department of Education.

Mr. RIBICOFF. Personally, I am very sympathetic with the position taken by the distinguished Senator from Arizona and the distinguished Senator from New Mexico.

Like the distinguished Senator from New Mexico, my parents were not born here. As a matter of fact, as a child going to school I learned how to speak English before by mother and father learned how to speak English. One of the great problems that is misunderstood, and I think the point made by the Senator from Arizona and the Senator from New Mexico covers this, is it not a question of separating and not integrating people who do not speak reorganizational kind of bill, that we are not supposed to be talking about broad philosophical questions. But to me this particular amendment raises a philosophical question which is very broad and very significant, and on which I cannot keep silent.

Mr. DOMENICI. Mr. President, will the Senator yield for 1 minute?

Mr. DANFORTH. Certainly.

Mr. DOMENICI. I want to say to my good friend that if he is an old fashioned integrationist, so am I. If you are an old fashioned integrationist, to borrow your words, so am I. In fact, I think probably I am a living example of it, probably more so than my good friend, because it happens that both my parents—not my grandparents or great grandparents, but both my mother and my father—were born in a foreign country. Neither of my parents, especially my father, had a bit of education in the United States, though he did very well in a foreign language. My mother did have some education here, since she came here as a young child.

I understand the importance of education as a great opportunity provider. But nevertheless, after all the decades of the educational goals that my friend speaks for, the dropout rates for Hispanics are so dissimilar when compared to the rest of the American population as to be absolutely astonishing.

The dropoff rate is tremendously higher, as indicated in my prepared remarks. The success in receiving an education is tremendously lessened for that group of Americans than others. The truth of the matter is that whether we are for it or not, that is, bilingual a question to the chairman of the Governmental Affairs Committee.

We do have a great responsibility, as has been pointed out, to integrate into American society those who come from abroad and who have a language difficulty in that they do not speak English; they continue to move into an ethnic neighborhood and become a part of their heritage. They are proud of it. We want them to be proud of it. We are all, in a sense, members of some ethnic heritage.

There is a school right here in the District of Columbia at the corner of 34th Street and M Street called the Americanization School. That is how the District of Columbia handles this matter. That school is open and draws to it people who come to this country, regardless of age, who cannot speak English, who cannot be put into a regular school, and who need a transitional school which places high emphasis upon language. But that is done by the local school district. It certainly is encouraged, I am certain, by the Office of Bilingual Education of the Department of HEW under the Commissioner of Education.

Would it be possible for us to establish legislative history at this time that though there is discretion on the part of the Secretary of Education, if this Department of Education is created that there be an Office of Bilingual Education? The managers of the bill and a number of Senators really feel that this is highly important and that we would place high priority upon continuing the emphasis that now the Commissioner of Education places upon bilingual education.

I would not want to see bilingual education English, separating them from the mainstream of the United States, but the realization that in certain areas of the country where there are large numbers of people who speak a language other than English, it is a very difficult problem to educate them with a sense of equality so they understand not only the United States but the lessons they are learning from schoolbooks in English. This takes a longer period of time. It requires a great deal of skill.

Certainly, in sections like New Mexico, California, Arizona, and Texas, where there are so many Spanish-speaking people, in the hundreds of thousands, completely surrounded by neighbors and friends speaking the same language so they do not have the opportunity of being able to converse or learn in English, their education should be furthered.

I was rather surprised when my distinguished colleague from Illinois pointed out that in Chicago alone there are some 600,000 people speaking Spanish. So we do have a problem.

The only objection I really had to the amendment of the Senator from Arizona and the Senator from New Mexico is that I thought they might, by seeking another Assistant Secretary, make this Department increase the bureaucratic burden. We tried to streamline this Department to make sure that we were not creating a great bureaucracy.

The Senator from Missouri and the Senator from Delaware tried throughout the markup on this bill to simplify this Department instead of complicating it.

What worries me is that by creating an Assistant Secretary for Bilingual Education, there are proposals for an

Assistant Secretary for Nonpublic Education, an Assistant Secretary for Rural Education, and in the offing an Assistant Secretary for Indian Education, an Assistant Secretary for Student Financial Aid, for Library Resources, for Teacher Training, and an Assistant Secretary for Follow Through. Before we are through we would have a massive Department that just could not be handled. We would not simplify the streamlining but we would be complicating a situation which would be helpful to education.

The Senator from Illinois is absolutely correct. By placing it the way we have and continuing the Office of Bilingual Education, there is an assurance, a guarantee, that we make it a part of the policy of the Federal Government to recognize its responsibility for bilingual or multilingual education and not to downgrade it. But our deep concern was not to complicate the organizational setup of the new Department.

I agree with my distinguished colleague. I would hope that it would be possible to work out a proposal to achieve the objectives of both the Senator from Missouri and the objectives of the Senator from Missouri and the objectives of the Senator from Arizona and the Senator from New Mexico. I think our objectives are basically the same.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

those programs which relate to bilingual education.

> The Director shall coordinate the administration of bilingual education programs by the Department. The Director shall report directly to the Secretary, and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. In carrying out the provisions of this section, the Director shall consult with the Director of the Office of Bilingual Education.

Mr. DeCONCINI. Mr. President, this modification adds bilingual education to the Office of Minority Affairs. It does not create an Assistant Secretary, as the original amendment did; it creates an Office of Bilingual Education and Minority Affairs, directed primarily toward the bilingual education programs, to be sure they are implemented and that minority participation is protected in those programs. I believe it is a step forward.

I thank the distinguished chairman of the committee (Mr. RIBICOFF) for his cooperation and that of his staff, and the minority ranking member for his willingness to work on this very important subject matter, not only to the State of Arizona and those States with a very high minority-language-speaking population, but other areas throughout the country. Only through the leadership of the distinguished Senator, knowing that he is very supportive of this bilingual part of the bill, could this be achieved, along with the help of the Senator from New Mexico, the cosponsor of the bill, and his staff's time in putting together what I consider to be a very positive compromise.

bureaucracy of the Department of Education. We want to keep it streamlined and remove it from categorical programing, and we want to see it is organized structurally, to correspond with the basic type of educational organization we have in America.

I now find the amendment, as modified, acceptable. I commend our distinguished colleague from Arizona for modifying it to suit the problems presented by Members of the Senate.

Mr. DOMENICI. Will the Senator yield for 1 minute?

Mr. PERCY. I am happy to.

Mr. DOMENICI. Mr. President, I first want to thank my good friend from Arizona (Mr. DECONCINI) for his diligent work on behalf of not only this amendment, but what it stands for.

As I see it, it is truly American, to borrow from my friend from Missouri's statement, to give every young child in this country an opportunity to be educated.

It is obvious that there are young people in this country who, because of language barriers and cultural barriers, are not all getting an equal opportunity.

That is what we are looking for here. We are looking for the development of a truly effective bilingual education program.

It is the Senator's view and mine that the only way we will get it, in addition to an authorization bill and appropriations, is to have the appropriate emphasis within the Department of Education.

That is what we sought to do. That is

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the amendment I send to the desk modify my Amendment 142 and that Senator CHILES be added as a cosponsor with those already on the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 81, between lines 5 and 6, insert the following: (G) a Director of the Office of Bilingual Education and Minority Affairs;

On page 81, line 6, strike out "(G)" and insert "(H)".

On page 81, line 7, strike out "(H)" and insert "(I)".

On page 81, line 8, strike out "(I)" and insert "(J)".

On page 81, line 24, strike out "(G)" and insert "(H)".

On page 88, between lines 17 and 18, insert the following:

OFFICE OF BILINGUAL EDUCATION AND MINORITY AFFAIRS

SEC. 211. There is established in the Department an Office of Bilingual Education and Minority Affairs, to be administered by a Director of Bilingual Education and Minority Affairs, who shall be appointed by the Secretary and shall be compensated at the rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Director and the Secretary shall consult concerning policy decisions affecting education programs of the Department which affect minorities, including

Mr. RIBICOFF. Mr. President, I do believe that we have worked out a good compromise. I think it should be emphasized, and I am sure that the Senator from Arizona will agree with me, that the basic purpose of this new Office is in the field of bilingual education and not the enforcement of civil rights, because there is already an Office for Civil Rights.

We want to make sure there is no interpretation in this amendment that this is civil rights oriented, but, basically, education oriented, affecting education programs with an emphasis on bilingual education.

Mr. DeCONCINI. The Senator is correct. Tht is my understanding and the purpose of this modification of the original amendment.

Mr. PERCY addressed the Chair.

Mr. RIBICOFF. Before yielding to the distinguished Senator from Illinois, this amendment is acceptable to the manager of the bill.

Mr. PERCY. Mr. President, I now support the amendment as modified. I think it places in proper perspective the importance of bilingual education, but also takes fully into account the very important points that have been brought out by our distinguished colleague from Missouri.

Certainly, we have a desire to assist and help every person that comes to this country that needs sesistance in order to accomplish integration into American life.

We do not want to perpetuate the separation of those who have foreign heritage, nor do we want to proliferate the what we are going to do with the kind assistance of the chairman and ranking Republican.

I appreciate their help in their job of trying to see that the money we spend on this phase of education is truly spent wisely, to give all young Americans, even those with language starts that are different from others, an opportunity to get a truly equal start in life.

I thank the Senator from Arizona.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the yeas and nays ordered for this vote be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. DeCONCINI. I move the adoption of the amendment, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Arizona.

The amendment (No. 142), as modified, was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 108

(Purpose: To provide for parental notification and consent before students participate in sex education programs in public elementary and secondary schools)

Mr. HELMS. Mr. President, I send an

amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 108:

At the appropriate place in the bill, add the following:

"No public elementary or secondary school which receives Federal financial assistance, shall require students to participate in sex education instruction or programs without first obtaining the written permission of the parents or guardians of such students and without providing an opportunity for such parents or guardians to review all educational material to be used in such instruction or programs, including all written materials, film, or other visual educational aids."

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. There is a 90-minute time limitation on this amendment, or has that been reduced to 1 hour?

The PRESIDING OFFICER. The time limit has been reduced to 1 hour.

Mr. HELMS. Thirty minutes to a side?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. This amendment by unanimous consent is not in the usual form, is that correct?

The PRESIDING OFFICER. The germaneness rule does not apply to this amendment.

cerned that valuable instruction in biological matters not be distorted.

While much of the discussion in "Turning Children into Sex Experts" is unpleasant, I commend it to the consideration of my colleagues since many of the organizations involved in producing the material described in this article receive substantial amounts of Federal financial assistance.

I might say parenthetically, Mr. President, that on Friday of last week, I had the pages distribute to every Senator in this Chamber a copy of Dr. Kasun's article. That article is on every Senator's desk right now.

Mr. President, I ask unanimous consent that the article by Dr. Kasun be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TURNING CHILDREN INTO SEX EXPERTS

(By Jacqueline Kasun)

The notion having long prevailed that anyone questioning the value of sex education must be some sort of unenlightened crank, it is small wonder that the topic receives so little scrutiny. There are, nevertheless, elements in the emerging sex-education movement that must raise questions in even the most accepting hearts.

It may come as a surprise to other parents, as it did to me, that the contemporary sex-education movement does not focus primarily on the biological aspects of sex. The movement's leaders and disciples are not biologists but mainly psychologists, sociologists, and "health educators." Their principal concerns are less with the physiology

the vocabulary and social fads" relating to it, "study the theories concerning it," view films and engage in role playing about homosexuality and take tests on it. The teaching stresses the sociological, rather than biological, nature of sex "roles." A suggested class outline distributed to teachers by Planned Parenthood emphasizes the "cultural basis of sex: 'masculine' vs. 'feminine' behavior; how we learn society's defined sex roles."

Another noteworthy feature of the contemporary sex-education movement is its emphasis on separate individual sexual gratification, rather than on sex as an interpersonal act. Thus, authors John Burt and Linda Meeks, in their Education for Sexuality (W. B. Saunders, 1975), a text for teachers of sex, describe coitus briefly but dwell for pages on the "four phases of sexual response" of the separate individuals concerned. They liken sexual response to an individual's jumping off a diving board" and suggest that junior high school teachers discuss in depth with the class "the person's [singular] feelings about sexual excitement and orgasm."

The instruction makes it clear that the source from which the person obtains these individual pleasures of sex—whether from married intercourse or from masturbation or from homosexual relations—is entirely a matter of preference. In a "sexuality" course for teachers, given recently by my county health department, I heard the instructor deplore the fact that so many otherwise well-informed girls and women "have never been told anything about masturbation" and "don't even know they have a clitoris."

AN EARLY START

To most persons first encountering the new "sexuality" instruction probably its more striking feature is its precarious intensity. The Burt and Meeks kindergarten-through-twelfth-grade model cirriculum begins with

Mr. HELMS. I thank the Chair.

Mr. President, I yield myself such time as I may require.

Mr. President, last week I had occasion to review an article in the recent issue of the Public Interest entitled "Turing Children into Sex Experts." As I am sure my colleagues are aware, the Public Interest is the outstanding academic quarterly edited by Irving Kristol and Nathan Glazer. Its publication committee is composed of such scholars as Martin Feldstein, Leo Rosten, Martin Segal, James Q. Wilson and of particular interest to all of us here in the Senate, the distinguished junior Senator from New York (Mr. MOYNIHAN) is also a member of that publication committee.

Mr. President, the subject of sex education is not an easy subjection to discuss, I acknowledge that at the outset. Indeed, as the author of "Turning Children into Sex Experts," Jacqueline Kasun states:

> The notion having long prevailed that anyone questioning the value of sex education must be some sort of unenlightened crank, it is small wonder that the topic receives so little scrutiny. There are, nevertheless, elements in the emerging sex-education movement that must raise questions in even the most accepting hearts.

Dr. Kasun certainly cannot be described as "some sort of unenlichtened crank." With degrees from the University of California at Berkeley and Columbia University, Dr. Kasun is presently a professor of economics at Humbolt State University in California. She is the mother of three children and is con- of procreation and inheritance than with "sexuality," a very broad field of interest running the gamut from personal hygiene to the population question, but largely concerned with attitudes and "values clarification" rather than with biological facts.

Thus, though the new sex programs are rather thin on biological facts, they do not skimp on information about the various types of sexual activity. From instruction in "French" kissing to the details of female masturbation, the information is explicit and complete. The curriculum guide for the seventh and eighth grades in my city of Arcata, in Humboldt County California, specifies that "the student will develop an understanding of masturbation," will view films on masturbation, will "learn the four philosophies of masturbation—traditional, religious, neutral, radical—by participating in a class debate," and will demonstrate his understanding by a "pre-test" and a "post-test" on the subject. A Planned Parenthood pamphlet, The Perils of Puberty, recommended by my county health department for local high school use, says: "Sex is too important to glop up with sentiment. If you feel sexy, for heavyen's sake admit it to yourself. If the feeling and tension bother you, you can masturbate. Masturbation cannot hurt you and it will make you feel more relaxed."

Homosexuality receives similarly thorough and sympathetic treatment in the new sex curriculum. In an article on "Sex in Adolescence: Its Meaning and Its Future," reprinted from Adolescence and distributed to high school teachers by Planned Parenthood, author James W. Maddock stresses that "we must finish the contemporary sex 'revolution' . . . our society must strive to sanction and support various forms of intimacy between members of the same sex." The sex-curriculum guide for elementary schools in my city specifies that children will "develop an understanding of homosexuality," learn a mixed-group "bathroom tour" in the first grade accompanied by the naming and explanation of the male and female genital parts. Children receive detailed instruction in male and female genital anatomy and human sexual intercouse in the fourth grade. Moreover, proponents of the new sex programs want them to be compulsory for all students from kindergarten through at least two years of high school.

Here in California state law still permits parents to keep their children out of sex classes by written request. Parents report, however, that they receive so little information about the times and nature of the instruction that they are unable to send in their requests at the right times. And whereas for most school activities requiring parental permission a signed permission slip is necessary. The law allows a child to receive sex instruction unless his parent specifically requests that he not receive it.

Planned Parenthood instructions urge sex teachers to maintain an "open atmosphere" in which students can "share" their feelings and "open up and talk freely about their concerns." One Humboldt County curriculum guide urges students to "thoroughly discuss their problems" in their sex classes and to engage in "total sharing" in such discussions. Teachers can accomplish these objectives and can "change teenagers' intentions" by "becoming the best friends in the adult world that many of these students have ever had," according to the Humboldt County Family Planning News, edited by Planned Parenthood officials and distributed by the county health department to sex teachers.

The "intention-changing" techniques are worthy of note. Rather than having the class register opinions by merely raising hands or casting ballots, the teachers of a sexuality class I attended would ask students holding various views to move to designated places in the room. Holders of minority opinions would thus find themselves conspicuously isolated in space.

With subject matter varying between the coyly sentimental and the grossly explicit, most class activities consist of seemingly innocuous, but clearly directional, mental-conditioning "exercises." Thus the Burt and Meeks teaching unit on homosexuality begins by having students discuss the changes which have occurred in male and female roles. Students then decide whether these changes have been beneficial for society. After this, they "role play" the parts of effeminate men and masculine women, and then they "collect magazine . . . articles . . . and pictures of famous persons who possess attributes of the opposite sex." The unit culminates with a vocabulary list of such words as *fellatio* and *cunnilingus*. Needless to say, the thrust of the conditioning process in this instance is obvious. A similar progression can be observed in all elements of the "sexuality" teaching.

By the time children are in the seventh grade, they will have been taught—and will begin to review—ovulation, intercourse, fertilization, anatomy (including ovaries, Fallopian tubes, uterus, vagina, hymen, labia, clitoris, scrotum, penis, testes, prostate, Cowper's glands), erection, ejaculation, orgasm, genetics, embryonic development, the several stages of birth, breast-feeding and bottle-feeding, and birth control. The curriculum in my city provides for seventh- and eighth-grade children to spend one-fifth of the school day for four weeks each year in "sexuality" instruction. During this time they are to review the above subjects and also take up new material on contraception, venereal disease, the "effects of overpopulation," the "need for mature and responsible decisions regarding population stabilization," homosexuality, masturbation, the "intelligent cise state that its purpose is "to provide a relaxed 'non-academic' means of reviewing the basic sexual physiology," to "provide a setting in which ignorance about physiology may be revealed without shame," and to "provide an opportunity to work as a group on a task." This activity has been included in the curriculum proposed for one city in my county. The guide suggests that though students may be permitted to work on this "exercise" as individuals, "the group experience . . . can help in . . . building . . . trust and sharing." In conclusion, the guide instructs the teacher to have students "discuss how they felt about 'drawing sex organs.' "

This enthusiastic pursuit of "self-awareness" in an "open atmosphere" extends to all aspects of sex education, including the programs for the mentally retarded. In their Sex Education for the Developmentally Disabled (Baltimore: University Park Press, 1973), Henry L. Fischer, Marilyn J. Krajicek, and William A. Borthick present explicit drawings of men and women masturbating and tell the teacher to elicit discussion by using four-letter words. The authors admit that parents may have "an underlying fear . . . that such talk about sex will create uncontrollable overstimulation." They nevertheless insist that parents and teachers should seize opportunities to discuss sex with retarded children, since the children know about it already or will find it out elsewhere. The fact that in either event the instructions is unnecessary raises a logical difficulty for all types of sex instruction, which its promoters counter by hinting darkly that all other purveyors of sex information are peddling mere "obscenities," in the words of Fischer and his colleagues.

Despite the billing as "education for love," love itself is thoroughly debunked in the new programs. Sex is simply something with other motives suggesting that persons who want children must, at the least, be socially inadequate, and, more probably, psychologically deranged.

The literature stresses how difficult it is to raise children and how unattractive they are: "Babies are not sweet little things. They wet and dirty themselves, they get sick, they're very expensive to take care of," warns one Planned Parenthood pamphlet distributed for student use. One local curriculum guide warns that "it is estimated that it takes $70,000 to $100,000 (not including mother's loss of income) to raise a child these days," that "babies need attention and care 24 hours a day," and that they can often spoil marriages by making their fathers "jealous" and rendering their mothers "depleted."

But above all, babies add numbers to the population. Though modern sex education claims to relieve students from all anxiety regarding any means of sexual expression, it imposes its own burden of guilt: Those who add to the population "explosion" are guilty of unforgiveable sin. The promotional literature makes it clear that the population-control purposes of sex education override any interest in "education for love" or "healthy positive attitudes." Fully one-quarter of the Burt and Meeks "Speech" is concerned with the "major problem of our times"—the population "explosion." The Speech states that the so-called "explosion" is responsible for unemployment, pollution, poverty, and starvation. The Speech tells listeners they have already "encountered the problem" on a personal basis while "attempting to get a bowling alley," "waiting your turn to play golf," and "looking for a place to hunt, fish, or camp."

Not content with thus playing upon middle-class impatience at waiting in any line choice of a sexual life style," genetics, and abortion. They receive information about the legality and safety of abortion and the "services available" to them (i.e., the availability of abortion through the county health department or Planned Parenthood to any girl without her parents' consent or knowledge).

The teaching methods are as intense as the subject matter. Burt and Meeks recommend that teachers have students in every grade "take notes on the discussion and carefully organize them into separate units to compile a notebook on human sexuality." The authors say teachers should "encourage outside reading and the inclusion of additional materials in the notebook," and should have students "do some research and report to the class on the differences between human sexuality and the sexuality of lower animals." The National Sex Forum distributes for dissemination to school children pages of details regarding the male and female genital response during sex. The curriculum guide drawn up for schools in Ferndale, California, suggests that high school students work as boy-girl pairs on "physiology definition sheets" in which they define "foreplay," "erection," "ejaculation," and similar terms. Whether or not students are satisfied with their "size of sex organs" is suggested as a topic of class discussion in this curriculum.

The teacher of a "sexuality" class I attended distributed instructions for "Group Drawing of Female and Male Reproductive Anatomy," in which high schools students are to "break up into groups of four to six persons, with men and women in each group." Each group then makes a drawing of the female and male reproductive organs and genitals, including the penis, scrotum, testes, vagina, clitoris, cervix, labia, and other parts. When the groups have finished, the teacher instructs them to check their drawings against accurate ones which she projects on the wall to "correct them" and to "talk about inaccuracies." The instructions for this exercise which one feels "comfortable," in the new view. A "sexuality" teacher whose class I attended guided her students through a lengthy list of "reasons why young people have sex" ("they want to prove their masculinity or femininity," "everybody else is doing it," etc.) without once mentioning love or marriage. "Romantic love," as portrayed in *Romeo and Juliet*, is an especially dangerous illusion, according to the new sex cult. It offers instead "rational love," which, according to University of Washington psychologist Nathaniel Wagner in his film *Human Sexuality*, can surmount the romantic impulse by envisioning the beloved sitting on the toilet passing wind while nose-picking and scratching.

Though rejecting traditional moral values, the new teaching is far from value-free. The new ethic, embraced and taught with all the fervor of the New England preaching tradition, is "responsible sex"—i.e., sex without parenthood, except under rigidly circumscribed conditions and in extremely limited numbers. Indeed, according to the Humboldt County *Family Planning News*, which is distributed to teachers it is good to realize that one may not be "parent material" and to forgo parenthood entirely. If people insist on having children, the *News* advises that there are "practical advantages to the one-child family," including "marital fulfillment," "lessened pressures from population growth," and "freedom to organize family activities without conflicts among children."

One school curriculum guide in my county carries out these themes by asking children to decide whether they are "parent material" by discussing "the problems that would be eliminated if I were the only child" and by lengthy discussions of family "conflicts" and "sibling rivalry." The guide offers a list of "reasons for having children," including the "desire to prove your femininity or masculinity (I can do it!)" "to make up for your own unhappy childhood," the "desire to be punished for having sexual relations," "to get back at your parents," and for any reason, the authors erroneously claim that "world population is increasing at a rate of 2 percent per year whereas the food supply is increasing at a rate of 1 percent per year." (In fact, the world food supply in the period since World War II has increased substantially faster than population, and per-capita food supplies are now at their all-time highs, despite attempts by several countries to curtail production.) The Speech threatens that unless the so-called "population explosion" is brought under control, average world food intake will decline to mass-starvation levels by the year 2000.

Nor is the Speech exceptional. The leading proponents of sex education have all frankly espoused it as the most effective and politically acceptable form of population control. In its Implementing DHEW Policy on Family Planning (1966), the Department of Health, Education, and Welfare touted its sex-education projects as a means of "effective fertility control," especially among minorities. Planned Parenthood and the Sex Information and Education Council of the U.S. (SIECUS) have long taught that sex educators have the duty to change people's values so as to reduce their fertility. As Dr. Mary Calderone, a leader in both of these organizations, put the problem of inducing people to want and to beget fewer children, "If man as he is, is obsolescent, then what kind do we want in his place and how do we design the production line? . . . In essence, that is the real question facing . . . sex education."

The sex curriculum adopted in my city places major emphasis on "population stabilization" and the "effects of overpopulation . . . crowded housing, lack of farmland . . . famine and eventual death." Seventh-grade students in my city are told to "consider future generations" and are shown films on the "overpopulation" threat. The teaching unit on "Contraception and Population Stabilization" instructs these seventh-graders in the contraceptive methods which they can use to avert the horrors of overpopulation. They are also instructed in "the permanent methods of birth control—vasectomy and tubual ligation," which they can use to defend themselves against this threat, and are told where they can obtain this protection. To maintain the pressure, local health departments throughout the country distribute impassioned warnings about the population "explosion" in periodic newsletters; here in Humboldt County the Family Planning News regularly sounds the population alarm by reprinting and distributing to teachers sundry threats of the calamities to ensue from "excessive fertility." The so-called "teenage pregnancy epidemic" stimulates additional alarms.

The "values clarification exercises" so much emphasized in modern sex classes carry out these themes. The following "exercise" appears in Sidney B. Simon's widely-used Meeting Yourself Halfway: 31 Value Clarification Strategies for Daily Living (Argus, 1974):

The population problem is very serious and involves every country on this planet. What steps would you encourage to help resolve the problem?

(1) volunteer to organize birth-control information centers throughout the country

(2) join a pro-abortion lobbying group

(3) encourage the limitation of two children per family and have the parents sterilized to prevent future births.

But, above all, the teaching emphasizes that the student should take responsibility for limiting his own procreation by means of contraception, sterilization, abortion. Also, "if you're not supposed to go after a girl . . . masturbation is a perfectly acceptable, useful, comforting thing," counsels Planned Parenthood in The Problem with Puberty, distributed for use in schools. Finally, homosexuality also achieves the movement's goal of separating sex from reproduction.

Though a full discussion of the population sex should be freely and widley enjoyed, the principal human responsibility is to limit human numbers.

Those who oppose this reduction of all philosophical and ethical thought into a grotesquely simplistic capsule cannot ask that the schools teach no values, since this would be both logically and practically impossible. But what values? Certainly, at the very least, parents have the right to demand that the schools not be used to induce guilt in children and young people for aspiring to become parents. As an immediate, practical recommendation for sex education, the advice of a citizens' group in this county may have been as good as any: It recommended that sex be taught as a biological science, with the permission of parents, and it recommended that the teaching of values be regarded as a family responsibility primarily, with the schools teaching "respect for the traditional moral values shared by most groups of our society."

The objectionable feature of the programs now being promoted by Planned Parenthood, the public-health establishment, and other members of the sex lobby is not that they teach sex but that they do it so badly, replacing good biological instruction with 10 to 12 years of compulsory "consciousness raising" and psychosexual therapy, and using the public schools to advance their own peculiar world view. One can only hope that not only biological science, but education itself, can withstand the assault.

Mr. HELMS. Mr. President, I thank the Chair.

The present legislation which we are considering is not a funding bill and my amendment is not intended to affect funding of governmental programs, nor is it an attempt to dictate the curriculum is on the desks of all Senators at this moment, entitled "Turning Children Into Sex Experts."

There are no implications in this amendment, except that the parents of children in America should be able to know the type of instruction in this field to which their children will be exposed and that the parents have a right to object.

Mr. President, I ask unanimous consent to have printed in the Record an article regarding this matter published by the Charlotte Observer on April 14 and a column by George F. Will, entitled "Plumbing for Hedonists."

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Charlotte Observer, Apr. 14, 1979]

Shocked Legislators Kill Sex Film

(By Ned Cline)

Raleigh.—State Sen. Anne Bagnal and state Rep. Mary Pegg said they were shocked almost beyond belief when they showed up at a legislative dinner March 1.

Taped to the banquet table's floral centerpiece were an IUD (intrauterine device) and a package of condoms. And at the head table was a display of other contraceptive materials, including birth control pills, foams and jellies.

Those displays led Sen. Bagnal and Rep. Pegg, both freshman Republicans from Winston-Salem, to learn more about the agency that sponsored the dinner: the state Family Planning Advisory Council, part of the Department of Human Resources.

One thing they learned about was a film, "About Sex," produced by two sex education question would be beyond the scope of this article, it should be noted that the doomsday view of the subject is not universally, or even very widely, shared by knowledgeable specialists in economics and demography. The significant point, however, is that under the guise of providing publicly-funded sex education, a particular interest group has found the opportunity to promote its unique view of the population "crisis." In undertaking to finance and promote a multi-million-dollar program of public sex education, the government has entered very heavily into the promotion of a particular world view and the establishment of a chosen ideology, a kind of secular religion. That is a posture the public and Congress would do well to examine anew.

BIOLOGY OR IDEOLOGY

Future policy should avoid excess—even though the extreme actions of the sex lobby invite extreme responses. Sex, taught as a part of biological science, is a valid study—from eggs and chickens in kindergarten to the miracle of human reproduction studied in higher grades. Indeed, this is the way good schools, both public and private, have traditionally taught sex. Numerous excellent biology textbooks and other teaching materials are in existence to support this traditional scientific instruction. Nor is there any reason why those students whose parents want them instructed in various methods of birth control should not receive this information from their physical-education teachers.

The question of the degree to which schools should be concerned with "values clarification" however, is a thorny one. Schools have traditionally been entrusted with the task of "molding character," but this responsibility offers as well an opportunity for ideologues to propagandize. Clearly, the emerging sex lobby is making every effort to use the schools to mold minds in the direction of a new morality which claims that though of any school or any school system.

Its only intent is to give the parents and guardians of schoolchildren in this country an opportunity to know the kind of "instruction" to which their children are being exposed.

In other words, this amendment seeks to protect the basic right of parents to oversee the education of their children. It simply provides that before students participate in sex education courses or programs in public elementary or secondary schools, their parents or guardians be informed and that these parents and/or guardians give their written permission. It further provides that parents have the right to review any educational material to be used in sex education programs.

One may ask, "Why is the Senator from North Carolina bringing this up?" We had a good case in point in my State of North Carolina just 2 or 3 weeks ago. Two fine North Carolina legislators, Senator Anne Bagnal and Representative Mary Pegg, raised strong objections in the North Carolina General Assembly to a so-called sex education film entitled "About Sex," which was produced by a man named Sol Gordon. During the time this film was produced, Mr. Gordon's Institute for Family Research and Education received $221,966 in Federal funds.

Mr. President, I have a wealth of material that I could read into the Record at this point and thereby consume the Senate's time, but that is not my wish. I am counting on Senators to have read, at a minimum, the article by Dr. Kasun, a copy of which I had placed on the desk of each Senator last Friday, and which consultants at Syracuse University in New York.

Until Friday, the film was available through the state agency to schools and other groups. But after a group of legislators saw the film Thursday, state officials Friday withdrew it from distribution.

The film deals with homosexuality and masturbation, has dialogue sprinkled with sexual slang and includes a frontal shot of sexual intercourse.

The Department of Human Resources had only edited versions, with the frontal nudity and intercourse scenes deleted, available by request to schools, churches and civic groups as part of the Family Planning Advisory Council's information program.

An unedited version was available through the library of the Department of Cultural Resources.

Groups showing the film are given a brochure warning of the content and advising them to preview it before showing it to students or certain other groups.

Sen. Bagnal and Rep. Pegg said they had been told the film has been shown to students as young as sixth graders, but that couldn't be confirmed Friday.

It also couldn't be determined Friday which of the state's schools had used the film or how many students had seen it.

Sen. Bagnal and Rep. Pegg arranged a showing of an uncut copy of the film Thursday for other legislators, and about 30 showed up.

Legislative reaction was swift and harsh, even from at least one of the more liberal members of the General Assembly.

Human Resources Secretary Sarah Morrow, after viewing the film Friday for the first time, announced the decision to withdraw it and said:

"I do not feel that this film is an appropriate educational tool for our young schoolchildren in North Carolina. I am calling for a reexamination of the criteria and process used for selection of films shown to school children on the subject of sex education.

"However," she added, "with the rising epidemic of teenage pregnancy, we must face the fact that there is a need for appropriate educational materials."

Rep. Pegg called the film "gross and gutter" with no moral theme, and said, "It basically told kids how to go out and do it."

She said she will call for a public hearing in the General Assembly so lawmakers can view all the other sex education movies and materials put out by the agency.

And conservative Sen. Beverly Lake, D-Wake, said he will draft a bill to prohibit showing films like the one he saw Thursday.

"The film was devoted almost 100 percent to information on how to engage in sex in the crudest way possible," Lake said. "Except for one or two points, it dealt solely with the idea that sex is fun and feels good, without any restraints it offered no theme of morality and was basically soft-core pornography."

Sen. Bagnal said she once favored sex education in public schools but the film had caused her to have second thoughts.

"It dealt mostly with permissiveness and presented a set of values contrary to what I think most people would want to teach their children," she said. "I object very much to it."

Sen. Kathy Sebo, D-Guilford, considered more liberal, said she wasn't offended by the film, but she felt it was "in poor taste from the standpoint of quality and its shock value."

The state has nine copies of film, at a total cost of $2,340.

The family planning branch of the Department of Human Resources operates on an annual budget of $900,000 in state money and $3.8 million in federal money.

The advisory council of 30 volunteer citquately. But seventh and eighth graders in Kasun's community are learning "the four philosophies of masturbation—traditional, religious, natural, radical." Those who speak of such "philosophies" are, at best, semi-literate, but they are in careers open to their talents: "Sex is too important to glop up with sentiment. . . . Masturbation cannot hurt you and it will make you feel *more* relaxed."

Kasun reports that the curriculum in Ferndale, Calif., suggests that students discuss in class whether they are satisfied with their "size of sex organs." And she says, "The seventh-grader in my city is advised to set for himself a purely 'personal standard of sexual behavior.' No religious views, no community moral standards are to deflect him from his overriding purposes of self-discovery, self-assertion and self-gratification."

Once upon a time, it was said that sex education would ameliorate the problem of teen-age pregnancy. But reasonable people warned, and some other people hoped, that sex education often would involve teaching that sex is just another occasion for self-absorption, another arena for "self-fulfillment." This would result in more promiscuity (and more abortions, and other signs of "clarified" values).

Recently, a rationale for "sexuality" training has been that it awakens children from the dark American slumber of Puritanism, repression, inhibition, etc. But surely for every child who needs to be "awakened" to sexuality there are 50,000 who need reinforcement against the enveloping sexual vulgarity of popular culture.

In C. S. Lewis' "The Screwtape Letters," the devil Screwtape, tutoring a young friend in the art of corrupting, explains that "nonsense in the intellect may reinforce corruption in the will." The trick, he says, is first to convince people that Fashion should rule them because Fashion is the Tide of History, and hence "progressive."

hibit public elementary or secondary schools which receive Federal financial assistance from teaching sex education unless written permission of parents or guardians is obtained, including the opportunity for the parents or guardians to review the pertinent teaching materials.

This amendment would open the door to Federal dictation of what State education agencies and local education agencies could establish in their curriculum. This would be a major precedent and is in direct conflict with the entire foundation of the Department of Education legislation which is to preserve local control in education.

Last year Senators ROTH and DANFORTH added language to the bill with respect to State and local control of education. This year that language has been further modified and improved.

S. 210 states specifically "the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school system and other instrumentalities of the States, tribal governments, public and nonpublic education institutions, communities and families." It also states that "in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments. This language is supported by the National School Legislatures, the National School Boards Association, the Education Commission of the States, and a host of other groups, including izens is required by federal law in order for the family-planning agency to get federal money. Edith Alcorn of Salisbury, council chairman, said the film wasn't used in the council's general sex education program but is available to groups that ask for it.

"Many people need help with family planning, and I only hope legislators would think of the problems which exist," Mrs. Alcorn said. "We have a very high caliber program, and the film isn't very representative of everything we do."

But she said displaying the birth control materials at the March 1 dinner probably wasn't a wise move, adding, "I don't know whose idea that was."

(From the Washington Post, Apr. 12, 1979)

"PLUMBING FOR HEDONISTS"

(By George F. Will)

These days, everything somehow reminds everyone of sex, and President Carter's desire to subsidize wood-burning stoves reminds me of sex education. I don't understand subsidies for the world's oldest use of fuel, and I don't understand intense instruction in the world's oldest obsession. At least I didn't understand the latter until I read "Turning Children Into Sex Experts," Jacqueline Kasun's essay in the latest issue of The Public Interest.

Kasun, a California academic, argues that sex education has become a "movement," the focus of which is less biological than political. Its prime movers are mainly psychologists, sociologists and "health educators" concerned less with the physiology of procreation than with "value clarification." It seems that being a sex educator is like being ambassador to the United Nations: A person eager for the job is apt to be exactly the kind of person who should be kept far away from it.

Schools are flooding society with young people who cannot read, write or think ade-

Then: "We direct the fashionable outcry of each generation against those vices of which it is least in danger. . . . Cruel ages are put on their guard against Sentimentality, feckless and idle ones against Respectability, lecherous ones against Puritanism. . . ."

And so, today, society invests hundreds of millions of dollars, and even more student hours, in sex-education classes. Many of them use the sort of materials Kasun cites, such as the article proclaiming that, "We must finish the contemporary sex 'revolution'. . . . Our Society must strive to sanction and support various forms of intimacy between members of the same sex."

The coarseness of the materials she cites (which I flinch from quoting) is intrinsic to the doctrine the material serves. Political arguments, pushed far enough, are about what kind of creatures we are and what we can become, and the doctrine of the sex-education "movement" is this: Man is a sensing more than a reasoning creature: life is a stream of sensations; the good life is the glandular life.

As Kasun says, In undertaking to finance and promote a multi-million-dollar program of sex education, the government has entered very heavily into the promotion of a particular world view and the establishment of a chosen ideology, a kind of secular religion."

The sex educators she cites treat sex partly as plumbing and partly as recreation. Theirs is an American triumph: plumbing for hedonists. But they should at least remember C. S. Lewis' warning: You can spoil your enjoyment of the finest mountain view by thinking of it in terms of the mechanics of the retina and the optic nerve.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, I oppose this amendment.

The Helms amendment would pro- parents and teachers.

Section 103 of the bill, which was amended in committee markup by Senators ROTH and DANFORTH, explicitly states the Department of Education shall not increase the authority of the Federal Government over education. That section also states that in the establishment of the Department of Education, the rights of the State, local and tribal governments in the "areas of education policies and administration of programs, including competency testing and selection of curricula and program content," shall be protected.

We have had amendments introduced already on the floor during discussion of this bill by Senators THURMOND and DOLE which specifically address the subject of local autonomy which respect to curriculum and other aspects of education decisionmaking.

Furthermore, the authority of section 432 of the General Education Provisions Act (GEPA), which is transferred to S. 210, explicitly prohibits "any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system." This amendemnt would thus be contrary to the existing prohibition language of GEPA.

In conclusion, this amendment is contrary to existing law as well as the thrust of the Department of Education legislation.

Mr. President, I am sure that if we did not protect the curricula content of local schools or local educational agencies, the distinguished Senator from North Carolina would be extremely upset, and I could not blame him.

We have tried to the utmost throughout this bill to make sure that this new Department did not exercise an independent control over the educational policies of the curricula of the local school boards. Right from the start, and throughout the hearings and the markup, the committee was unanimous that we were going to reserve these rights and responsibilities to the States and localities.

However, here we have a situation in which this amendment specifically puts the Federal Government right in the center of the curriculum content of our schools. What we have done in our proposed legislation is to protect the right of every local school board to make its own determination as to what should be in the curriculum. The amendment of the distinguished Senator from North Carolina would try to tell the local school boards what the content of their educational policies should be. The Helms amendment is absolutely contrary to the entire thrust and philosophy of this bill, and therefore I oppose this amendment.

Mr. HELMS. Mr. President, I ask my good friend from Connecticut to look at me. Will he look at me?

M. RIBICOFF. Surely.

Mr. HELMS. What I am going to say intends no disrespect to him. He knows that. He is my friend, and I admire and sembly did that." But how about the instances in which there are no Mary Peggs and Anne Bagnals?

How much of this stuff is going on and what is wrong, Mr. President? Someone tell me what is wrong with parents having oversight in connection with the kind of instruction in this delicate, sensitive, important field? I just do not know how anyone could oppose this amendment.

Mr. President, all across this country there are parents who are becoming increasingly concerned about this very thing.

We become a part of what we condone, and no Senator should forget that. Any Senator who votes against this amendment will be voting on the exclusion of parents from knowing the type of instruction to which their children are being exposed.

I say all of that with the greatest affection for my friend, and I mean him no disrespect, but he could not have been talking about the Helms amendment when he delivered that statement.

Mr. RIBICOFF. All I can say is I am talking exactly about the Helms amendment, because the Helms amendment state, and I read in part:

> No public, elementary or secondary school . . . shall require students to participate in sex education instruction or programs—

Et cetera.

Now, if any school system or district wants to have sex education they have dren shall have a right to know. To the length of my cable tow they are going to have that right to exercise.

Mr. President, I ask for the yeas and nays if we have enough Senators in the Chamber.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I will be delighted to yield back the remainder of my time whenever the Senator from Connecticut is willing.

Mr. PERCY. Mr. Preisdent, will the Senator yield?

Mr. RIBICOFF. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I wish to ask a question. The distinguished Senator from North Carolina indicated that the film had been produced with Federal funds. Is this a film produced by the Commissioner of Education, by the Department of HEW, or was this a film produced in North Carolina in which Federal funds were actually used and then the State legislature of North Carolina saw fit to withdraw the use of that film in its State?

Mr. HELMS. But only because two legislators happened to be informed about the film, I say to the Senator. That is the point. They do not know.

Mr. PERCY. But is this a Federal film?

Mr. HELMS. It is a film produced by a Federal contractee which received 221,966 Federal dollars—the Institute for respect him.

However, the Senator from Connecticut could not be talking about the Helms amendment in the rebuttal he has just made. Nothing could be more obvious than the fact that no interference is even implied in this amendment with the curriculum of any school or school district. I will read the amendment:

> No public elementary or secondary school which receives Federal financial assistance, shall require students to participate in sex education instruction or programs without first obtaining the written permission of the parents or guardians of such students and without providing an opportunity for such parents or guardians to review all educational material to be used in such instruction or programs, including all written materials, film, or other visual educational aids.

Mr. President, the Senator from North Carolina does not want the Federal Government dictating any curriculum, but the Senator from North Carolina wants the parents of this country to have an opportunity to know and to pass judgment on the type of instruction to which their children are being exposed.

I say again, Mr. President—and I say to my friend from Connecticut, for whom I have the greatest affection and admiration—that he should have seen the film which the North Carolina legislators saw that was to be used in schools of North Carolina. These two fine lady legislators from North Carolina saw the film. They called a meeting and showed the film to other members of the General Assembly, and the very next day, a decision was made to withdaw that film from circulation in the public schools.

One may say, "OK, the General Assembly has a right to do so without the Federal Government telling them to get in or out of it.

What I am saying is this is something for local control, and local curriculum, and it is not up to the Federal Government, to Congress, to tell local school boards what should be in their curricula.

If the people of North Carolina are against this film or against this type of education, either the State legislature or the school boards can so forbid it.

What I am saying is they have a right to do so. But I am arguing against starting down this long road of Federal control in which we in the Federal Government are telling any school system what they should teach, what school books they should use, what textbooks they should use. That is up to the local agency or the State legislature.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. RIBICOFF. As I interpret this amendment, it specifically says that no public elementary or secondary school shall require students to participate in sex education, and that is why I complain about this amendment, because it is exactly contrary to the element of local control instead of Federal control.

Mr. HELMS. I say to the Senator as I listen to him I am wondering if he is not in a mood now to join with the Senator from North Carolina in repealing title IX, because title IX does precisely what the Senator is now speaking to and much more. There the problem is very real. In this amendment, the Helms amendment, as it is referred to, we are simply saying that parents of these schoolchildren Family Research and Education and distributed in the schools all across this country.

Mr. PERCY. I see.

Mr. HELMS. So I am saying to the Senator, in response to our mutual friend from Connecticut, that in addition to the direct subject we need to have some oversight about the expenditure of Federal funds, so we are killing two birds with one stone, and they are buzzards as far as I am concerned.

Mr. PERCY. However, in this context, as I understand it, the film was produced and made available, but it is up to the discretion of each State and each individual school district as to whether to use it or not. At one point the decision had been made, apparently, that that film would be used in North Carolina. There was objection, the State legislature acted on that objection, and it was withdrawn.

What happens and applies in North Carolina may not necessarily be the same situation as in California, New York, Illinois, or any other State in the Union.

That is the beauty of having a Federal system of Government. As the floor managers and the members of the committee have so frequently emphasized, by creating a Department of Education in no manner or means are we attempting to say the Federal Government shall dictate what local school districts or the States shall do. However, here in this amendment, it would appear that for the first time the principle is being established that we are somewhat going to say that local school districts cannot have a program of education unless, in this particular case, they obtain the written permission of the parents or the guardians and have the available material received by those parents and guardians so that they can determine whether they want their child to participate.

This is what the Senator from Illinois objects to: The principle of the Federal Government dictating and directing how the local districts and how the States shall handle the problem of education. If that is established then the same thing could be true for the teaching of nuclear physics. There are an awful lot of people in this country today exercised and aroused about nuclear energy. There was a huge rally here in the Nation's Capital Sunday. There may be many who participated in that rally who would want to say we want to remove this technology from every aspect of American life. Therefore, why should the Federal Government not do it? If you can somehow restrict the teaching of one particular subject matter, why can you not then restrict the teaching of other subject matter? I think it would be a clear infringement by the Federal Government on the prerogative of local officials to determine local curricula and procedures pertaining to local curricula.

The Federal Government should not tell local school districts what to teach, how to teach it, to whom and when, and from whom to get permission. This the province of the duly constituted and elected school boards, State legislatures, or whatever it may be that should be in charge of education in that particular school district or that particular State.

Mr. HELMS. Mr. President, will the Senator yield? the words "sex education" and insert anything and, therefore, parental authority and permission and the review of all such material by parents might be necessary and required.

These fights should be fought out, it would seem to me, in the local school districts. There are all kinds of fights like this, and we well know that this emotional subject of sex education has reared its head all over the country. It has been the subject of tremendous debate.

But by now most of that debate has been settled. North Carolina has settled it in its way.

Mr. HELMS. As to one film.

Mr. PERCY. It has been settled in Wilmette, Ill., my hometown, in its way. But certainly I would much prefer to see these decisions, left entirely to local control, without the Federal Government's getting into, in this case, curricula, and telling and prescribing a methodology by which and before which such education can be given to students.

Section 103(a)(2) of this bill provides, and I would like to quote it to my colleague, I wonder if I could quote it to him:

> (2) It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational pro- we are going to start laying down the procedure by which they must adhere before they can reach that particular program in their particular schools.

The Senator from Illinois would be very fearful that it may extend to many, many other subject areas and begin the process, which all of us disdain, of any element of Federal control over curricula in our schools.

I thank my distinguished colleague.

Mr. HELMS. I thank my friend from Illinois.

Mr. PERCY. I thank my distinguished colleague for his tolerance and his understanding.

● Mr. ROTH. Mr. President, I oppose the amendment in the context to which it is offered today by my colleague, Senator HELMS. As Senator RIBICOFF has indicated in his statement in opposition to this amendment, we have made every effort in the drafting of legislation to establish a separate Department of Education to preserve State and local prerogatives in educational policy and choice of curricula and program content. Therefore, if a local educational agency deems it useful or desirable to have parental consent—it is their responsibility to implement such a directive—it is not the responsibility of the Federal Government to dictate these types of policies. I might add that as a parent, I agree with Mr. HELMS that parental consent be given before a child be required to participate in sex education classes. However, I do not think this is a matter to be dealt with on the Federal level. We

Senator yield?

Mr. PERCY. I am happy to yield for a comment.

Mr. HELMS. This is a question, actually.

Is the Senator under the impression that the amendment of the Senator from North Carolina would forbid somehow——

Mr. PERCY. Oh, no. The Senator from Illinois has read the amendment very carefully. All I would have to do is scratch sex education and I could insert nuclear physics, physiology, or almost anything else that someone might feel the Federal Government, in its omniscience, should be in a special category and subject to control over the way the local school district determines whether that should or should not be taught.

Mr. HELMS. I say to the Senator, if he will yield on my time, that I must plead with him to understand that I have affection and admiration for him, also, and so therefore any disagreement I have with him is certainly not personal. But I do not see how he can say that this amendment would affect curriculum when all it says is that parents shall have a right to know and to decide as to their child only, period. How in the world is that adversely affecting the curriculum determinations on the local level?

Mr. PERCY. The Senator from Illinois well remembers the arguments that ran up and down this country as to whether communism should be taught in the public schools of the United States of America.

Or whether Mein Kampf be allowed in a library? It is possible to just strike out grams and policies.

That language was put in the bill specifically because of the great concern of a good many Senators on this side of the aisle who were concerned that, by the very creation of a Department of Education, somehow we might get into curricula development.

The Senator from Illinois and the Senator from Connecticut, as the managers of this bill, assured them time and time and time again that such was not the intent, and this specific wording in section 103(a)(2) was put in exactly for that purpose.

The amendment before us would be a clear contradiction of that language and of the intent of this legislation to preserve local control of schools.

I know that this is a subject of much debate, and certainly it is understandable that, if it had been a subject of heated debate in the legislature of North Carolina, the distinguished Senator from North Carolina would have taken a position on this. He has every right to take that position with respect to the schools in his State and his own school district. But I would not want to see an amendment that would in any way infer that the Federal Government is laying down special standards and putting a special stigma on a type of education that, in other parts of the country, may well be felt to be essential and which is overwhelmingly supported by school boards, by teachers, by students, and by parents.

Here we would be putting a foot in the door, just getting started with the Federal Government establishing the principle that, in this particular case, have worked to provide a legislative history which leaves no room for doubt that education is a matter to be left to State and local governments—this has had a long tradition in this country and we must continue to insure that this tradition is upheld.●

Mr. HELMS. Well, there is no problem about the ability of the Senator from Illinois and the Senator from North Carolina to agree to disagree agreeably.

What the Senator from Illinois just said to me, if I may state a hypothetical case, is if a parent in Chicago, Ill. said, "I do not like explicit sex education material and I want my child not to be exposed to it," the Senator from Illinois is saying that the Federal Government must take the position that the local government is to be the final judge of this basic right, even though the Federal Government may spend millions of dollars to produce such material.

But, Senator, local control begins with the parents or else the school system will not work. My own judgment is—and I may be wrong about this—that the deterioration of the public schools in the United States began with the intervention of the Federal Government by financing and by other means, and while the interest of parents has been diminishing, and the quality of education by every measurement I have seen has been diminishing. But in any case, local control of schools has to begin with the parents. They have to have a say so. They have a right to a say so. There is no better way to insure local control than by the adoption of an amendment such as this which promotes informed decisionmaking by parents and involves them in the activities within the classroom.

Mr. President, I am prepared to yield back the remainder of my time if the Senator from Connecticut is prepared to do so.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. HELMS. I do yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), and the Senator from Tennessee (Mr. Sasser) are necessarily absent.

I further announce that the Senator from Maine (Mr. Muskie) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. Laxalt) is necessarily absent..

I further announce that the Senator from Vermont (Mr. Stafford) is absent due to illness.

The PRESIDING OFFICER (Mr. Exon). Is there any other Senator in

Mr. PERCY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask that the Senator from Connecticut be permitted to yield 15 minutes to me.

Mr. RIBICOFF. I am pleased to yield.

Mr. MOYNIHAN. I thank the chairman for his characteristic grace.

Mr. President, we have just seen defeated a proposal which will be back, and in greater force, for years to come, if indeed we go ahead with the establishment of this Department.

I would like to call attention to what may appear to be an irony, or even an illogicality—that persons in this Chamber who would be the most vigorous in supporting grassroots democracy, who would insist that the public schools should be governed by local communities, who would decry the threat of Federal regulation, were the very ones voting to have the Federal Government regulate one of the most sensitive issues dealt with by the schools.

I would have to say that I cannot yet feel that those of us who have been trying to make these points have been given much coverage in the analyses which have been published about this debate, nor do I think we are even being much listened to anywhere. But the record does indeed exist.

The PRESIDING OFFICER. I am sor-

This, then is not the last you will hear of sex education or school prayer.

Now to another point, Mr. President. This is the second issue of its kind to occupy us in recent days. Two weeks ago, in order to avoid attaching a school prayer amendment to this legislation, the U.S. Senate, for the second time, solemnly voted to deny the Supreme Court jurisdiction over an issue of first amendment rights. I would have hoped the press might have noticed this.

I had occasion last Friday to give an address in New York at the annual Scripps-Howard Foundation awards luncheon, in which an award was given for service to the first amendment.

After discussing the first amendment matters which were of great concern to the editors and publishers now meeting in New York, I added the following observation:

> Now, finally, a warning. If the courts present a problem today, expect the legislative and executive branches to be the more enduring problem. A cloud no bigger than a man's hand, perhaps, has just appeared in the Senate and I would hope there might be more attention.

I ask unanimous consent to have my remarks printed in the Record at this point.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Address by Senator Daniel Patrick Moynihan

In 1734, John Peter Zenger, publisher of the Chamber wishing to vote?

The result was announced—yeas 16, nays 73, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—16

Armstrong
Byrd, Robert C.
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
McClure
Melcher
Schweiker
Stennis
Talmadge
Thurmond
Zorinsky

NAYS—73

Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stevens
Stevenson
Stewart
Stone
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young

NOT VOTING—11

Bayh
Durkin
Gravel
Hart
Inouye
Kennedy
Laxalt
Long
Muskie
Sasser
Stafford

So Mr. HELMS' amendment (UP No. 103) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

ry to interrupt the Senator from New York, but the Senate must be in order. I would ask that the Members of the Senate please take their seats or move their conversations out of the Chamber, please.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

At least we will have a record in which it will be recorded that some of us said that we were commencing the politicization of American education, that we were doing everything that those of us who fought for Federal aid two decades ago vowed never to let happen. Now it is happening right here before us. In typical fashion, our long-standing interest brings the battle back to us, to those who are most committed to local control. Why? Because there is a logic of politics in the American federal system. It dictates that groups which do not prevail on the level at which an issue first appears raise the level in the Federal system to the next step and then the next, hoping always to find a majority in the Nation where it cannot be found in the region, in the State, or in the community.

It is a denouement of our politics. We can observe in action in the Federal system throughout the course of two centuries. So, on this basis, we may well expect that the school prayer issue, the sex education issue, and any number of other intensely divisive and difficult matters which may arise to come gradually up to one uniform rule. They are, however, matters which we think we would like to think should be settled locally because such a process makes possible a mosaic of choice, including ultimately the choice of an appropriate jurisdiction.

the New York Weekly Journal was imprisoned on a charge of seditious libel. Having criticized the activities of the colony's Governor, William Cosby, who arranged his arrest. Zenger spent nine months in prison, but in August 1735, was brought to trial and acquitted by a jury. Zenger's lawyer, Andrew Hamilton, had called upon the jury to secure "that to which nature and the laws of our country have given us a right—the liberty of both exposing and opposing arbitrary power (in these parts of the world at least) by speaking and writing truth."

It is the case, I believe, that since Zenger's trial the press in America has looked to the courts as an ally and often as a protector against efforts by the executive or legislative branches of the government to limit press freedom.

This, the American experience, I believe has been without equivalent elsewhere. I remind you that for fourteen years the British press had, but was forbidden by British law of contempt from publishing, information on the thalidomide scandal. The British courts took, and take, the view that when a matter is in any sense sub judice, no newspaper can be permitted to comment on it. At length the London Times took the issue to the European court of human rights which has ruled in its favor. But no remedy was available in Britain. Our courts have taken a very different view of the role of the press, and from roots deep in our colonial past there grew up a relationship between the courts and the press which has done much to protect our liberties.

In our own day we have seen the early tradition live on: In the Pentagon Papers Case in 1973, *New York Times* v. *United States*, the Supreme Court ruled that the Federal Government lacked the power to prevent the Times from publishing the information involved. In the Nixon tapes case in 1974, *Nixon* v. *U.S.*, the Supreme Court ruled 8 to 0 against a claim of executive privilege made by the President of the United States.

Of a sudden, however, there has been a sequence of cases in which the courts themselves appear to be limiting, if not indeed abridging the freedom of the press. This is, or appears to be, an altogether new experience, and clearly a deeply disturbing one to the press.

Three cases illustrate this sudden dilemma. In 1972 in *Branzburg v. Hayes*, a closely divided Supreme Court rejected the press argument that before a journalist should be required to testify with respect to information gathered from confidential sources, there must first be a demonstration that (a) the information was relevant; (b) there is no alternative source from which the information could be obtained, and (c) the information was of central import to the proceeding in which it was sought.

In 1977 in *Zurcher v. Stand/ord Daily*, the court—again closely divided—rejected the argument of the press that a search of a newsroom, even pursuant to a search warrant, should not occur, unless there is good reason to believe that a subpoena could not, for one reason or another, serve the same purpose. (the difference, of course, is major; when the sheriff arrives with a search warrant, the newspaper has no opportunity to litigate the question of first amendment protection; a subpoena may, however, be immediately challenged in the courts.)

And in last week's ruling in *Herbert v. Lando*, the court, (again, by a divided vote) held that journalists in libel suits would be required to respond to questions as to why they published one story and not another, what they said in the newsroom to their editors, and the like. In a separate concurring opinion, Justice Powell indicated that first amendment values should be at least considered in the course of determining which questions need be responded to by journalists—a far cry from a district court opinion that said such concerns had "nothing to do"

been rejecting efforts by the press for accommodation. The press position, or so it seems to me, has been reasonable and balanced, seeking some protection for itself while acknowledging that other legitimate interests also need protection. I do not suggest that in each case the balance sought by the press was the correct one, but would only argue that it has been the press and not the courts which has sought accommodation and has acted with considerable restraint.

Certainly, in these cases, the press has not sought some great accretion of power or some sort of immunity from the laws which govern the rest of us. When the press seeks to protect confidential sources, or prevent searches of newsrooms when a subpoena could produce the same evidence, or to head off extremely vague and wide-ranging discovery motions challenging editorial judgments, all it is doing is its work: All it is attempting is to function.

Now this has scarcely gone unnoticed in the press itself. Many comments have expressed the most profound concern, even alarm.

Thus, Leroy Clemens of the Elgin, Illinois Courier News is quoted as saying he expects to see "an awful lot of newsmen in jail"; while John Siegenthaler of the Nashville Tennessean writes of "the chain of cases designed to shackle the press."

This commentary has hardly ceased, and ought not to do, even so, as a legislator I find myself reluctant to add a great deal to it for the simple reason that I find myself persuaded, even commanded, by Mr. Justic Black's comments in the Pentagon Papers Case that, in effect, no law means no law, a point I made on the Senate floor. Still, it may be useful to offer what might be termed a legislative perspective.

Hence two observations, and a final warn-

courts become the judges of their own case, hence, and we must expect of them a restraint that we would not necessarily expect in their scrutiny of executive and legislative processes.

My second observation would be that the court changes its mind, a matter on which we have long had Mr. Dooley's testimony. Our first duty to the court is to obey it, and this we do with loving fealty. But a second duty, surely, when we think the court to be wrong, is to seek to persuade it of this.

This is not an uncommon situation in which a legislator finds himself. I, for example, have been arguing against the court's rulings of the past generation on the constitutionality of state aid to nongovernment schools. It seems to me that the meaning of the establishment clause of the first amendment is plain and unmistakable. Congress shall make no law establishing a national church. That is what it says, and that is all it says, and it was a century and one half before the court said otherwise. I have considerable confidence that within the coming generation the court, avowedly or otherwise, will reverse itself.

I would remind you that for the longest time, from the age of McKinley to the age of Roosevelt, the Supreme Court solemly held that the due process clause of the fourteenth amendment prohibited labor legislation. This was absurd, and the day came when the court simply stopped saying it.

But now, finally, a warning. If the courts present a problem today, expect the legislative and executive branches to be the more enduring problem. A cloud no bigger than a man's hand, perhaps, has just appeared in the Senate and I would hope there might be more attention.

Twice this month the Senate voted in favor of, and has adopted, an amendment which which removes the jurisdiction of the with the scope of discovery in a libel case. In Justice Powell's words, "Whatever standard may be appropriate in other types of cases; when a discovery demand arguably impinges on first amendment rights a district court should measure the degree of relevance required in light of both the private needs of the parties and the public concerns implicated." But, of course, the decision remains.

These rulings came in conjunction with the extraordinary rulings in a New Jersey court against the New York Times and Myron Farber whose resistance is the subject of a special citation today.

Taken as a group on so I would hold these rulings represent significant abridgements of first amendment rights of the press I offered my personal reaction to the Farber case on the floor of the Senate on August 7, 1978:

"The amount of the fine and the nature of the imprisonment are such that without anyone ever having intended it, or in any way anticipated it, we suddenly face the prospect that government could destroy the New York Times, perhaps the most important newspaper in the world today. For the power to fine, more even than the power to tax, is the power to destroy."

It has been assumed, that the first amendment protects newspapers and newspaper reporters from the divulgence of their sources. In consequence there has been a proper reluctance to see the Congress, or, indeed, any legislature, reinforce or restate those privileges on grounds that "What Congress can give, Congress can take away." Yet today we face the evident situation that the Supreme Court will not confirm the existence of those immunities under the first amendment. Hence we face a dilemma and a crisis without equivalence, I believe, in the modern history of the American press.

Not the least disturbing aspect of these cases is that in none did the press advance extreme claims, or demand absolute protection. Rather, the courts in these cases having that there may be worse to come.

My first observation would be that if the press is startled by these recent events, it is probably the case the courts are uneasy as well. It is a new experience for them also. I have the sense that in protecting, as obviously they think they are doing, their own procedures and interests the courts have been perhaps insufficiently sensitive to the fact that the courts, too, are a branch of government and if far less disposed nonetheless equally capable of abusing power, or bringing about the abuse of power.

It is possible to see the specific court decisions as seeking to protect parties charged with serious crimes or engaged in unequal contest with large institutions. Still, what will be remembered, and what will have influence as the consequences of these decisions work their way into the larger court system, is not imagery, but precedent and practice. Thus, it is easy to imagine the reverse of these situations, where the defendant is small and weak, an independent newspaper or broadcasting station let us say, and the plaintiff is a powerful government figure or a powerful governmental institution or agency. It will then become a matter of a different sort, where the seeming opportunities once afforded an isolated individual become in fact the pretext for striking at the first amendment in another, and more dangerous, context.

Here, the courts face a supreme test. For, in .practical terms, the judiciary is that branch of government most immune from the influence of the others. The courts rule routinely on the actions of the executive branch, less frequently to be sure on the activities of the legislative branch, but even there, court rulings have established important precedents and guidelines. We accept this because, after all, we are attached to the old principle of the common law that no man should be the judge of his own case. But, perforce, in the matters we are discussing Supreme Court in school prayer cases under the First amendment. My own view of this, as I stated on April 19, in a speech to the National Catholic Education Association in Philadelphia, is that, "this seemed to me an alarming measure, which truly does involve the basic law of the land. Prayer prescribed by public authorities—whether voluntary or not—gets very close to the notion of establishment of religion, which the Constiution forbids."

My point here is simple: if the Senate is willing so cavalierly to deal with this one section of the first amendment, what about other sections? You should know that the view that Congress can prevent the court from ruling on specific constitutional questions has some currency among scholars. Section II of article III plainly says that the Supreme Court shall have appellate jurisdiction "with such exceptions, and under such regulations as the Congress shall make." Interpreted broadly, this clause would swallow up virtually all the rest of the Constitution, and leave constitutional rights entirely in the hands of the State courts for enforcement. Such a path, if indeed constitutional, is so unwise, and offers such a clear threat to our liberties if pursued too far, that it is on reflection astonishing that the Senate should have taken even one single step down it. Yet it did so—twice in one week.

And so one turns again to the courts, and to the traditions with which we are all familiar—tradition of conciliation, of compromise, of balance. There is no substitute in the legislature for judicial protection of constitutional rights, and indeed there is no more likely harbinger of difficult times in the legislature than difficult days in the courts. We can fairly charge the courts to examine again their honorable history here, and to hew to it. It is one of the glories of our past, and only they can assure that it will be with us in the future.

It is that simple, and that difficult. And there is no real solution to be had save by relying on those qualities which we have come most to admire in the workings of our legal processes—caution, consistency, scrupulous respect for constitutional guarantees.

Mr. MOYNIHAN. We voted under article III, section 2, and now I must observe that, rather to my surprise, there appears to be substantial scholarly opinion that says Congress does enjoy as a right what most of us reacted to as being simply an unconstitutional act. We voted to say the Supreme Court may not defend our rights with respect to the one portion of the first amendment.

But what about another portion? The exact same logic, the precise precedent, will obtain and you will see a danger—perhaps not in this Congress, perhaps not in the next, but what about the next decade? Ours is not a system devised for with just the ensuing 5 months, or even 15 years, in mind. What about the next generation?

We are legitimating in this bill the deprivation of the Supreme Court's right to protect our liberties under the Bill of Rights and we are setting up a system whereby precisely those issues that most ought to be decided locally will be decided nationally. An era in American education is coming to an end. I can only say that it is almost a source of some relief that nobody notices it, because there is enough to worry about, I suppose, in the world. I simply wish this were not happening.

Before concluding, I should like to add that there may be some inevitability to thority of the Intergovernmental Advisory Council on Education to hold hearings.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes an unprinted amendment numbered 109.

The amendment is as follows:

On page 95, strike out lines 1 through 7 and insert the following:

(1) hold hearings either as a whole or as a subcommittee, for the purpose of discussion, coordination and review of (A) intergovernmental concerns and (B) issues concerning structural relationships between various Federal departments and agencies, as such concerns and issues relate to the functions of the Council specified in subsections (a) and (b); and

On page 95, between lines 12 and 13, insert the following:

(i) the Council or any subcommittee shall not compel, the attendance or testimony of witnesses or the production of books, records, correspondence, memorandums, papers, or other documents.

On page 95, line 13, strike out "(i)" and insert "(j)".

Mr. JEPSEN. Mr. President, I offer this amendment merely to clarify the language relating to the authority and role of the Intergovernmental Advisory Council.

Specifically my amendment has two essential phases: First, the first phase of my amendment is offered to bring attention to the problem of systemic and structural interrelationships between people is and will always be subject to abuse.

Mr. President, as a result of the above, I am greatly concerned about the power and productivity of the executive branch of our Government. One of the major problems of the Presidency today is that, within the past 30 years we have witnessed a situation in which the decisions that come before the President are far too numerous and complex. As a result the President has to rely more and more on faceless and often nameless Presidential staffers who are not subject to either Senate confirmation or public scrutiny.

Therefore, Mr. President, I would much rather have the Intergovernmental Advisory Council on Education study and review the problems of intergovernmental structural relationships in the various Federal departments and agencies in the areas of education consistent with the mandate of the act. (S. 210.)

Second, Mr. President, the second phase of my amendment is merely an attempt to clarify the language relating to the authority of the Intergovernmental Advisory Council to request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem available.

I have been told that my amendment is unnecessary, because the present language in section 213 only gives the Council the authority to request the attendance of witnesses and such books, records, correspondence, memos, papers, et all this. I suppose, and I can only be thankful that what appears to be coming to pass has done so under the aegis of a man of compassion, of clarity, and of sincere concern for these matters. I speak, of course, of the Senator from Connecticut. He knows of my total respect. What I object to, Mr. President, is this age, not that great Senator.

Mr. RIBICOFF. If the Senator will yield, even though I shall not have his vote on final passage, I accept his compliments with a great sense of gratitude.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I know there are a number of other amendments. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. RIBICOFF. Mr. President, the Senator has it in his own right.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

UP AMENDMENT NO. 109

(Purpose to modify the authority of the Intergovernmental Advisory Council on Education to hold hearings)

Mr. JEPSEN. Mr. President, I call up the amendment which is at the desk, the purpose of which is to modify the au-

and within the various Federal departments and agencies.

I strongly believe that we are moving in the wrong direction by taking the "E" out of "HEW." The Department of HEW is not a conglomerate but a coalition. The interrelationships among HEW programs and activities are far more significant than their divergences. In short, the similarity, coordination, and interdependence between the "H," "E," and "W" of HEW are more interconnected and structurally related than the proponents of this act have demonstrated thus far in this debate.

More importantly, HEW is directly responsible for the resolving and coordination of the Nation's most urgent concerns such as poverty, drug abuse, alcoholism, juvenile delinquency, mental retardation, child development, aging, rehabilitation of the handicapped, and host of other human concerns—none of which fall within the exclusive jurisdiction of one HEW office. The problems are not exclusively "health," "education," or "welfare" and as such they involve and encompass aspects of each other.

Mr. President, everytime we separate or establish a new department or agency we diminish the ability for problems to be efficiently solved by and through the executive and administrative process.

Secondly, we further erode the ability of Congress to serve in an oversight capacity, a function which is desperately lacking by the Congress. In short, the jurisdiction and influence over the operations of Government agencies and departments is greatly diminished and thus the quality, efficiency, and service to the

cetera. In short, the language allegedly does not compel a response by local schools.

Mr. President, in all due respect to the person who drafted this particular section and to those who are convinced that we are not compelling local school boards to submit to the whim of the proposed Council, I am not as wholly convinced as they are.

Therefore, I have prepared language which expressly prohibits the Council from compelling the production of books, records, and other material from local schools.

Mr. President, I simply move the adoption of this amendment.

Mr. RIBICOFF. Mr. President, I thank the distinguished Senator from Iowa for this amendment. It is an improving amendment, and it is very worthwhile. As manager of the bill, I find it acceptable, and I accept the amendment.

Mr. PERCY. Mr. President, the purpose of the Intergovernmental Advisory Council on Education is an extraordinarily important mandate. Its purpose is to strengthen the interrelationships between governments and particularly to make recommendations for the improvement of the administration and operation of the Federal education program and educationally related programs.

I believe that the amendment that has been worked out with the distinguished Senator from Iowa is an improvement in the original text of the bill. I find it acceptable, and I express deep appreciation to the Senator from Iowa for his work in this regard.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. JEPSEN. Mr. President, for the purpose of clarification: The second part of the amendment now will read:

> The council or any subcommittee thereof shall not compel the attendance or testimony—

and so forth.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 110

(Purpose: To provide a block grant for teacher improvement in lieu of the categorical grants under title III of the Elementary and Secondary Education Act of 1965)

Mr. JEPSEN. Mr. President, I call up an amendment to provide a block grant for teacher improvement in lieu of the categorical grants under title III of the Elementary and Secondary Education Act of 1965.

Mr. RIBICOFF. Mr. President, I raise the point of order that this amendment is not germane.

The PRESIDING OFFICER. In response to the Senator from Connecticut, the amendment has not been reported as yet, nor has it been sent to the desk.

The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Iowa (Mr. JEPSEN) proposes an unprinted amendment No. 110: At

> "(3) For the purposes of paragraph (2) of this subsection the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.
>
> "(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original allotments to such States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount realloted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.
>
> "USES OF FUNDS
>
> "SEC. 305. Grants made or under this title may be used in accordance with applications approved under section 306 for programs and activities conducted by public elementary agencies designed to provide better teachers with special emphasis on teaching innovation projects.
>
> "APPLICATIONS
>
> "SEC. 306. A grant under this title may be made to any local educational agency upon application to the Commissioner at such time, in such manner, and containing or ac-

The Chair recognizes the Senator from Iowa.

Mr. JEPSEN. Mr. President, my principal objection to the proposal to create a separate Department of Education is simply and easily stated. I fear that it is a significant step in the effort to expand the Federal Government's role in the substance of educational curricula.

It all started with a grabbag program of "special projects" in title III of the Elementary and Secondary Education Act. These included federally assisted efforts to develop curriculum in consumerism, environmental education, metric education, and other areas. Last year, the programs were separated and expanded, and new curriculum programs in health education and the biomedical sciences were added.

We now have the situation of most universities and institutions of higher learning offering basic reading courses, spelling courses for freshman students, because some high school graduates cannot read or write at a sufficient level.

I am a member of the Armed Services Committee, and we today find it mandated and necessary that our training manuals be rewritten to a seventh-grade reading level, because some of our high school graduates cannot read above that level. People with high school diplomas cannot read and subsequently comprehend above a seventh-grade level.

The trend is clear. The National Education Association itself acknowledges that—

the end of the bill add the following new title:

TITLE VII—TEACHING INNOVATION AND IMPROVEMENT PROGRAM

PROGRAM AUTHORIZED

SEC. 701. (a) Title III of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE III—TEACHING INNOVATION AND IMPROVEMENT PROJECTS

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Teaching Improvement Act'.

"STATEMENT OF PURPOSE

"SEC. 302. In order to provide innovative projects for the improvement of teaching in the public schools of the States, it is the purpose of this title to make unconstitutional education grants to local educational agencies for such purposes.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 303. There are authorized to be appropriated $180,000,000 for the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983.

"ALLOTMENT

"SEC. 304. (a)(1) From the funds appropriated pursuant to section 303, the Commissioner shall allot not less than 1 per centum among Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands, according to their respective needs.

"(2) From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the number of children in each such State—

"(A) who are age 5 to 17 inclusive; and

"(B) who are enrolled in the public elementary and secondary schools of local educational agencies, bears to the number of such children in all States.

companied by such information as the Commissioner deems necessary. Each such application shall—

(1) provide that the programs and activities for which assistance under this Act is sought will be administered by and under the supervision of the applicant;

(2) Describe with particularity the programs and activities; and

(3) provide for making evaluations of programs and activities assisted under this title.

"(b) Applications for grants under this title may be approved by the Commissioner if the application meets the requirements set forth in subsection (a) and the provisions of this section.

"(c) Amendments of application shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original applications.

"PAYMENTS

"SEC. 307. Payments under this title shall be made from a State's allotment to any local educational agency which has an application approved under section 306. Payments under this title shall be made for the cost of carrying out the application of the local educational agency.".

(b) The amendment made by subsection (a) shall become effective October 1, 1979.

On page 74, in the table of contents, after item Sec. 602 insert the following:

"TITLE VII—TEACHING INNOVATION AND IMPROVEMENT PROGRAM

"SEC. 701. Program authorized.".

Mr. RIBICOFF. Mr. President, I make the point of order that the amendment is not germane.

The PRESIDING OFFICER. Until the time on the amendment has been used or yielded back, the point of order is not in order.

> Creating a department of education is, indeed, a profound step in which the federal government will be recognizing, for the first time, that it has a responsibility for education in and of itself.

Before a Thurmond amendment removed it, S. 210 contained a provision calling for "the improvement, development, and oversight of a comprehensive Federal policy for education."

In their widely quoted article for the Washington Post, David Breneman and Noel Epstein argued that—

> Establishing a Cabinet-level department is a backdoor way of creating a national education policy, of breaking with the long tradition of a limited federal involvement in education and of virtually no federal responsibility for schools and colleges themselves.

For those who feel the billions of dollars which the Federal Government has spent on education have had a salutary effect, this may represent a positive step. I happen to agree with David G. Savage, who stated, in an April 15, article for the Washington Post:

> Large-scale, federally funded studies have generally been unable to find that the extra money (for various types of compensatory education projects) has had much impact in improving education.

My amendment would attempt to insure that the new Department of Education will not be a springboard from which to launch new curricular programs. It would take the subchapter III functions which are being transferred to the new department, and would replace them with a general block grants for local school districts to use in developing competent teaching. The funding could be used to encourage top teachers to take jobs and remain in schools with large numbers of disadvantaged youngsters. It could be employed to help improve teaching through special courses of instruction.

The important point is that the local school districts would have the discretion to use the funding for projects which they regarded as important, rather than being forced to channel large amounts of funding to "metric education" or other "Mickey Mouse" projects which some Federal bureaucrat may determine to be important.

For those of us who view the quality of teaching as the most important parameter in the quality of American education, this is an auspicious result. As the Rand Corp. has stated in its comprehensive study on Federal education programs:

> More money supplied by federal funds did not necessarily purchase those things that mattered; it did not buy, for example, more committed teachers, more effective project directors, more concerned principals and so on.

It may be that teacher commitment is a quality that money cannot buy. But an important first step will be to insure that Federal money is channeled in the direction of the quality of teaching, rather than the content of the consumer education course curriculum.

I, therefore, hope that the Senate will support my amendment.

poses an unprinted amendment numbered 111:

On page 131, between lines 12 and 13, insert the following:

LABOR UNION AFFILIATION

SEC. 429. The Secretary shall promulgate rules or orders to assure the right of every employee of a State, local, or tribal government, or public or/nonpublic educational institution receiving support from the Department, directly or indirectly, to form, join, be represented by, or assist any labor organization, or to refrain from any affiliation or assistance with any labor organization.

On pages 131, lin 14, strike out "Sec. 429" and insert "Sec. 430".

On page 73, in the table of contents, renumber the items relating to section 429 as the item relating to section 430 and immediately after the item relating to section 429 insert the following:

"Sec. 429. Labor union affiliation.".

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. JEPSEN. Mr. President, I shall make some opening statements. I understand that there will be a ruling from the Chair.

Mr. President, to be specific, my amendment is very straightforward and quite specific. It mandates that the Secretary of Education shall promulgate rules or orders to assure the right of every employee of a State, local, or tribal government, or public or nonpublic educational institution receiving support from the department, directly or indirectly, to form, join, be represented by, or assist any labor organization, or to refrain from any affiliation or assistance ate. The amendment, therefore, falls because it is not germane.

Mr. JEPSEN. Mr. President, I wish to appeal that ruling of the Chair and ask for a yea and nay vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. JEPSEN. I yield.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I move to table the appeal and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. The Senator from Iowa has a total of 21 minutes remaining.

Mr. JEPSEN. I yield the remainder of my time.

Mr. RIBICOFF. Mr. President, I renew my point of order that the amendment is not germane.

The PRESIDING OFFICER. Since the amendment introduces new subject matter and is not relevant to the bill, the amendment falls.

Mr. JEPSEN. The freshman Senator will not appeal the ruling of the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JEPSEN. Mr. President, I have 21 minutes.

The PRESIDING OFFICER. The Chair understood the Senator to yield that back.

Mr. JEPSEN. I meant I yielded it back on this particular amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

UP AMENDMENT NO. 111

(Purpose: To require the Secretary to promulgate certain rules concerning labor union affiliation)

Mr. JEPSEN. Mr. President, I offer an amendment the purpose of which is to require the Secretary to promulgate certain rules concerning labor union affiliation.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) pro-

with any labor organization.

I have emphasized "or refrain from any affiliation or assistance with any labor organization" because I strongly believe that no person should be compelled to join, affiliate, or participate with a labor organization as a condition of employment.

The list and docket of cases brought by teachers and educators in opposition to compulsory unionism, retroactive agency shop fees, and even a right to quit an unwanted union, is well documented. More importantly, teachers and educators are prevailing in court and through the arbitration process.

My amendment simply insures that individuals who choose to not participate, affiliate or join the labor organization, be given the protection and integrity to so choose without fear of the loss of their job or quiet enjoyment of their work.

I have documentation from the States of California, Illinois, Maine, Massachusetts, Michigan, Minnesota, New York, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin that will document what I have just stated in these brief remarks.

I appreciate any support of this, and I now yield the remainder of my time to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I raise the point of order that the amendment is not germane.

The PRESIDING OFFICER. It is the opinion of the Chair that the amendment is not germane because it deals with matters before other bodies of this Sen-

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. I wonder if the Senator wished to discuss his appeal?

Mr. STEVENS. I think he did.

Mr. ROBERT C. BYRD. Mr. President, I withhold my motion. I ask unanimous consent that I may withhold it until the Senator has had a chance to discuss his appeal at which time I will renew it.

The PRESIDING OFFICER. Without objection, it is so ordered.

In the capacity of the Senator from Nebraska, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, in the few moments that I have I would just simply state that this is a straightforward concern, and I consider that it should be regarded as being germane; that this bill is one where it is a well-known fact that the association most concerned, and which has been spending much time and money in promoting the establishment of a Federal Department of Education, is the NEA, the National Education Association.

Let me read from just one of the States I listed here before, and I will quickly read the States: California, Illinois, Maine, Massachusetts, Michigan, Minnesota, New York, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin.

Under Ohio:

> A lawsuit lodged by the NEA union officials against six teachers for not paying forced union fees under an agency shop contract backfired when the judge ruled that an agency shop is illegal in Ohio.

We find continually woven into the fabric of NEA activities an attempt to force people to join unions in one form or another. I simply state in my amendment that a teacher should have the choice of whether such teacher should join or not join a union.

I yield the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Connecticut yield to me?

Mr. RIBICOFF. I am pleased to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, under the agreement that has been entered into no nongermane amendments are in order.

One of the tests of germaneness with respect to an amendment is that of which committees which would have jurisdiction over the subject matter of that amendment.

This amendment, I am advised, is clearly within the jurisdiction of the Committee on Labor and Human Resources and, consequently, under that principle of germaneness it is not in order.

The Chair has ruled properly, in my opinion. The appeal has been made. Mr.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vot "yea".

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted?

The result was announced—yeas 68, nays 24, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—68

Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Eagleton

Exon
Ford
Glenn
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan

Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schweiker
Stennis
Stevenson
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NAYS—24

Armstrong
Baker
Byrd,
Harry F., Jr.
Dole
Garn

Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure

Stewart
Stone
Thurmond
Tower
Wallop
Warner

On page 81, line 7, strike out "(H)" and insert "(I)".

On page 81, line 8, strike out "(I)" and insert "(J)".

On page 81, line 24, strike out "(G)" and insert "(H)".

On page 88, between lines 17 and and 18, insert the following:

OFFICE OF RURAL EDUCATION

SEC. 211. There is established in the Department an Office of Rural Education, to be administered by the Assistant Secretary for Rural Education appointed under section 202(c). The Assistant Secretary for Rural Education shall study the nature and quality of education in the rural areas of the United States, and shall gather, coordinate, and disseminate information concerning rural education and the problems uniquely associated with the rural areas of the United States. The Assistant Secretary for Rural Education shall assist the Secretary in the administration of programs which have a significant impact on rural education. The Assistant Secretary for Rural Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

On page 88, line 19, strike out "Sec. 211." and insert "SEC. 212.".

On page 89, line 2, strike out "Sec. 212." and insert "SEC. 213.".

On Page 90, line 13, strike out "Sec. 213." and insert "SEC. 214.".

On page 95, line 22, strike out "Sec. 214." and insert "SEC. 215.".

On page 139, line 9, strike out "(6)" and insert "(7)".

On page 72, in the table of contents, renumber the items relating to sections 211 through 214 as the items relating to sections 212 through 215, respectively, and insert immediately after the item relating to section

Jepsen has the right to appeal the ruling of the Chair.

I do not like to table amendments, and so on, but when it comes to sustaining the Chair on a matter which, to me, is as clear as this, then I have no hesitancy to move to table, and I would fail in my responsibility not to do so.

I hope the Senate will sustain the ruling of the Chair by my motion to table the appeal from the ruling, which I now review.

The PRESIDING OFFICER (Mr. McGOVERN). The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair.

Mr. STEVENS. The yeas and nays were ordered.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

Goldwater
Hatch
Hayakawa
Schmitt
Simpson
Stevens
Young

NOT VOTING—8

Bayh
Durkin
Gravel
Inouye
Kennedy
Muskie
Sasser
Stafford

So the motion to lay on the table was agreed to, and the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The Senator from Iowa.

UP AMENDMENT NO. 112

(Purpose: To establish an Office of Rural Education in the Department)

Mr. JEPSEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes an unprinted amendment numbered 112.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, between lines 4 and 5, insert the following:

(F) an Assistant Secretary for Rural Education;

On page 81, line 5, strike out "(F)" and insert "(G)".

On page 81, line 6, strike out "(G)" and insert "(H)".

210 the following:

"SEC. 211. Office of Rural Education.".

Mr. JEPSEN. Mr. President, this amendment is offered to bring attention to the lack of consideration given to the study of the nature and the quality of education in the rural areas of the United States by the proponents of the Department of Education.

If in fact the Senate in its wisdom is going to insist on the passage of a new Department of Education, then I respectfully insist that the Senate, and more importantly the Congress, seriously consider the plight of education in rural America.

It concerns me greatly that there is no depository for information which examines or studies the nature and quality of education in rural America.

My amendment instructs the Assistant Secretary for Rural Education to gather, coordinate, and disseminate information concerning rural education and the problems uniquely associated with the rural areas of the United States. The amendment further instructs the Assistant Secretary for Rural Education to assist the Secretary in the administration of programs which have a significant impact on rural education.

I strongly feel that rural America has some unique problems which have not been articulated or addressed relative to urban America. We ought to at least have the means and appartus to gather such information. Support for this amendment would be greatly appreciated. I yield to the Senator from Alabama (Mr. STEWART).

Mr. STEWART. Mr. President, I rise to support the amendment by the distinguished Senator from Iowa to authorize an Assistant Secretary for Rural Education in the Office of Education. I support a separate Department of Education because I believe it is necessary.

I believe that by creating an Assistant Secretary for Rural Education, an Office of Rural Education, we recognize the unique nature of the problems encountered in providing education in rural areas.

The State which I represent is largely rural. Thirty-six of Alabama's sixty-seven counties are at least two-thirds rural. For too long, we have neglected these areas. We fail to recognize the different and unique problems faced by rural America. Unfortunately, these areas have some of our most dilapidated schools and some of our most inadequate educational programs. The millions of schoolchildren in these rural areas must also contend with isolation, poverty, and underdevelopment.

For too long, our Federal education programs have been geared to the needs of nonrural school districts. Mr. President, I recognize that we face serious problems in our urban schools. Hopefully, with the increased visibility of the Department of Education and an increased emphasis on quality education, we can address those problems, too. However, let us not forget the severe problems that face our rural schools.

The approach that we take to addressing all these problems should recognize ment takes which affects rural areas interests me.

In Vermont, as with most Federal programs, rural areas get the short end of the stick when it comes to education assistance. In fact, although 53 percent of this Nation's educationally deprived are in rural areas, only 34 percent of HEW's money for these children goes to rural areas. These statistics and others clearly point to the need to bring equity in the Federal response to rural education needs.

I wholeheartedly support the principle behind the amendment of the Senator from Iowa. Rural America needs attention and an advocate in high offices within a newly created Department of Education. However, I must oppose the Senator's amendment because I do not believe this is the appropriate manner of addressing this problem.

The new Department is being established along broad functions. I am willing to support this simplified and streamlined approach. However, I share Senator JEPSEN's concerns and believe we should send a clear message to those in the administration who will implement this legislation.

That message is, stop ignoring the educational needs of rural America. Show us within a year what specific actions the new Department is taking to identify and resolve the "rural" problems.

This is not intended as "puff" language. I am dead serious about expecting results. will, then, withdraw this amendment. I now do so.

The amendment was withdrawn.

AMENDMENT NO. 147

(Purpose: To terminate the Department of Education six years after the effective date of this Act)

Mr. HAYAKAWA. Mr. President. I call up my amendment No. 147, to sunset the Department of Education 6 years after its enactment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes amendment No. 147.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 146, immediately after line 21, insert the following:

"TERMINATION OF THE DEPARTMENT

"SEC. 603. (a) The Department shall terminate six years after the effective date of this Act unless prior to that date a law has been enacted which continues the Department.

"(b)(1) If the Department is terminated in accordance with the provisions of subsection (a), the President shall submit a plan to the Congress which transfers the functions of the Department to other departments or agencies unless prior to the termination date of the Department its functions have been so transferred by law. The Presithe differing circumstances of urban metropolitan educational systems and rural school systems. That is why, Mr. President, it is important for us today to provide a means of addressing rural education in the proposed Department of Education. Not to do this would perpetuate our neglect of the millions of schoolchildren in rural America.

There are currently few, if any, programs directed specifically at rural educational problems. An Office of Rural Education would remedy this situation, which is why I rise to support the amendment offered by the Senator from Iowa.

It is my understanding that he plans to take a somewhat different tack or approach in dealing with this problem and might not leave the amendment up for consideration by the Senate. In any event, I hope that his offering of the amendment will focus the attention of the Senate and the Government on the particular problem.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. JEPSEN. I yield.

Mr. LEAHY. Mr. President, I should like to take a moment to address the proposed amendment of the Senator from Iowa. I do so in my capacity as chairman of the Rural Development Subcommittee.

I do not think there is anyone in the Senate who has a greater interest and concern for our rural residents than I do. By Federal definition, Vermont is a totally rural State. It has no urban areas, again by Federal definition. So any action, law, or regulation that this Governing action from the new Department within a year. I also want to put the new Department on notice, and to assure my colleague from Iowa, the distinguished chairman, the Senator from Connecticut, and the rest of the Senate that, as chairman of the Rural Development Subcommittee, I intend to hold hearings on this in future years to determine whether or not the Department of Education is fulfilling its responsibilities to rural America. If we find that this responsibility is not being met and that the creation of an Assistant Secretary for Rural Education is needed, I will be the first to advocate creating such a position and giving the office the power and authority necessary to insure equitable treatment for rural America.

Basically, Mr. President, I hope that, once we have had a chance to discuss this, my friend from Iowa might withhold his amendment, because it will give us a chance to see whether these rural needs will be met, or will be addressed. I can assure him, from my vantage point, that if they are not, I shall be the first one standing in line to cosponsor such an amendment in future years.

I yield back to my friend from Iowa.

Mr. JEPSEN. Mr. President, with the assurances of the distinguished Senator from Vermont and his obvious sincere concern for the problems, as chairman of the subcommittee of which I am a member—and I appreciate that concern and those assurances—I shall be willing to take that into consideration.

Further, with the counsel and the good advice of my subcommittee chairman, I

dent may not submit a plan under this subsection which provides for or has the effect of creating a new executive department. The President shall submit a plan required by this subsection within sixty days after the date of termination of the Department in accordance with the provisions of subsection (a), the Congress has enacted legislation which transfers the functions of the Department to other Federal departments or agencies.

"(2)(A) The plan submitted by the President to the Congress pursuant to this subsection shall take effect at the end of the first period of sixty calendar days of continuous session of Congress after the date on which such plan is transmitted to the Congress unless, between the date of transmittal of the plan and the end of the sixty-day period, either House passes a resolution stating that the House does not favor the plan.

"(B) The provisions of sections 908, 910, 911, and 912 of title 5, United States Code, shall apply to any resolution considered under this paragraph. For the purposes of the preceding sentence—

"(i) all references in such sections to 'reorganization plan' shall be treated as referring to a plan submitted under section 603(b) of the Department of Education Organization Act of 1979, and

"(ii) all references in such sections to 'resolution' shall be treated as referring to a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the   does not favor the plan submitted under section 603(b) of the Department of Education Organization Act of 1979 on   , 19   .', the first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

"(3) If a plan is disapproved in accordance with the provisions of this subsection, within thirty days after the date of disapproval

of such plan the President shall submit another plan to the Congress for the transfer of the functions of the Department. Such plan shall take effect at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan is transmitted to the Congress unless the plan is disapproved in accordance with the procedures established in paragraph (2). The President shall continue to submit additional plans for the transfer of the functions of the Department until a plan takes effect.

"(4) For the purpose of this subsection—

"(i) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.".

On page 73, in the table of contents, immediately after the item relating to section 602, add the following:

"Sec. 603. Termination of the Department.".

The **PRESIDING OFFICER**. The Chair asks the Senator from California if this is the amendment on which 1 hour is designated or the one on which 15 minutes is designated.

Mr. **HAYAKAWA**. It is the one on which there are 15 minutes.

Mr. President, this amendment would sunset the Department of Education 6 years after its enactment. Thus, the Department of Education, if passed during this session, would terminate after 6 years unless Congress votes to extend its justification with which to defend my position.

Congress approves almost any program, regardless of the small benefit to be gained by taxpayers. However, taxpayers are demanding more and more that we in Congress carefully examine new and existing Federal programs. Sunsetting a law provides a timetable for legislative review that insures examination of Federal programs on a regular basis, and also protects a program from termination without proper consideration.

The main reason I want to see this Department of Education as sort of an experiment is that I am not sure any of us knows exactly what to expect from it. Certainly, it sounds wonderful to say we are so concerned about education that we created a cabinet-level department strictly to deal with it. But sounding wonderful and being wonderful are two entirely different matters.

I was an educator for 43 years before coming to the Senate. During those years, I saw our educational system grow and develop. But progress was in the hands of the teachers, the local school boards and the States. Teachers taught; children learned.

But in recent years, Washington has pushed its foot into the schoolhouse door and created new, sophisticated priorities. Teachers have been given new rules, regulations and mandates to deal with. They have had to expand from the basics to include sex education, bilingual education, driver education, health education and Washington-knows-best education. They have been told to push our

But if I am unable to convince my colleagues to oppose this new Department then at least let us give it a temporary life span to prove its worth or worthlessness.

I hope that all of you will give some serious thought to supporting my amendment to sunset S. 210, the Department of Education, after a 6-year period unless we in Congress agree to prolong its life.

Mr. **RIBICOFF**. Mr. President, I am opposed to the amendment by the Senator from California.

For one thing, it is unnecessary. Approximately 98 percent of the Department's programs already have a built-in sunset provision. These programs are subject to reauthorization every 3 to 5 years. When these programs are reauthorized they are subject to close scrutiny and often modified.

In addition, sunsetting programs, rather than organizational structure—as this amendment would do—is the approach that has been recommended by Senator Muskie and approved by the Senate last year. We would be working at cross purposes with comprehensive sunset legislation if we were to approve this amendment to sunset a department.

Similarly, provisions of this sort should not be adopted on a piecemeal basis, but should apply to all agencies. Right now, the Governmental Affairs Committee is working on S. 2, which would apply to all programs. We hope to life. The President would then have the responsibility to distribute the programs that had been in the Department to other appropriate agencies and departments.

My purpose in proposing this amendment is to give Congress an opportunity to see how this Department works before we give it an open-ended lease. We would do well here in the Senate to attach this type of sunset provision to more legislation. That way, there is a definite time limit to prove a department's success or failure. I think 6 years is an adequate length of time for this proposed Department to prove its worth. If it is successful and truly improves education, then we can renew its lease. But if it is unsuccessful, we then have a definite time to cancel its continuance.

We in Congress have a propensity for creating and enacting legislation, then thinking little more about it, other than to periodically authorize more money for it, or to answer our constituents' questions. But, truthfully, after we come up with these bright ideas, our participation is finished. It then becomes the responsibility of our State and local governments to cope with these new laws.

I have long been a supporter of the "sunset" approach for review of our Federal programs, and would be delighted to see this type of provision attached to this Department of Education proposal.

I know I am not alone in hearing from constituents who are furious about having to cope with and pay for yet another Federal program that is not vital to us right now. In fact, there is a feeling that children along the educational path at whatever cost. And what has been the result? I have seen semi-illiterates enter college only to be swept along once again by the bureaucratic broom—pass them, move them along, they told us. And so, after 16 years of education we find Johnny and Jane "educated" but without the basic skills they need to get jobs and to grow and prosper in our society.

We love to create legislation here, in our Nation's Capitol. What will a new Department of Education do for that third grade teacher back in Eureka, Calif.? And most importantly, what will it do for Johnny and Jane? I think I know the answer—nothing. Absolutely nothing. So I ask this question of the administration: Why create a new Department? Why not work to improve what we already have—God knows there is a tremendous amount of work to be done. Why create another bureaucratic monster for teachers and loacl communities to have to cope with? Until I have a meaningful answer, I will oppose this proposal.

No one will argue that we have serious problems in American education. Our national efforts to improve education have been mostly ineffectual. Federal money levels for education in the last 10 years have tripled while our educational standards have deteriorated. Will someone please tell me how having this Department will erase these problems? For lack of a better alternative, supporters say "Let's try it—we have nothing to lose." That is nonsense. That is not true at all. We have much to lose, the least of which is the public's trust and confidence in their elected representatives. I have no hold early hearings on this legislation. These hearings are the proper forum in which to consider the issues raised by this amendment. S. 2 is the legislation in which a comprehensive and coordinated approach to education and other programs should be pursued.

Senator MUSKIE, chairman of the Budget Committee and the chief sponsor of S. 2, the sunset legislation, has communicated to me of his opposition to this amendment. I would like to read a few excerpts from his letter which states clearly the problems encountered by this type of proposal:

> While I share the broad objectives of those who propose to sunset the Department of Education after a period of years, I am concerned that their amendments would fail to achieve the goals we have set out to accomplish under sunset legislation
>
> For example, one of the major goals of sunset legislation is to assure that Congress will reauthorize groups of related programs during a two-year Congressional term The bill does this by requiring that all programs within the same subfunctional budget category be reauthorized during a Congress
>
> For example, the education subcommittees would have an opportunity to review and reauthorize all of the federal activities under subfunction 501 (elementary, secondary and vocational education) in one Congress. In a later Congress, they would take a look at subfunction 502 (higher education). Both subfunctions would be administered by the Department of Education.
>
> The proposed sunset amendment would terminate the entire Department of Education at once. This would force the education subcommittees and the Congress as a whole to do a superficial job.
>
> I do not believe that we should approach the issue of sunset in a piecemeal fashion.

One of the underlying tenets of the sunset bill is the commitment of the Congress to a ten-year schedule for the review and reauthorization of federal programs. That review and reauthorization would be conducted according to a carefully thought out and comprehensive schedule for the reauthorization of those federal programs.

I would urge the supporters of sunset to withhold support for amendments of limited focus and join with me and others in this body who want to see a broader sunset bill become a reality and work for its early adoption.

Mr. President, I ask unanimous consent that Senator MUSKIE's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 26, 1979.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR ABE: I understand that during the consideration of S. 210, the legislation to establish a Department of Education, an amendment will be offered which would sunset this new department at some time in the future. I regret that a previous obligation will prevent me from participating in the debate on this legislation, but I want to take this opportunity to share my thoughts with you on the proposed sunset amendments.

As you well know, the Senate passed the Sunset Act of 1978 by a vote of 87 to 1 during the second session of the 95th Congress—an accomplishment that would not have been possible without your dedicated efforts and support for this legislation over the past four years. More importantly, that vote has partment which failed to work well or whether in fact the programs it was asked to administer should be changed or discarded.

I welcome any opportunity for the Senate to debate the merits of sunset legislation. I am firmly committed to seeing S. 2, the Sunset Act of 1979, enacted into law before the 95th Congress comes to an end. The more we debate the need for this legislation, the more I am convinced that members of Congress and the public will call for its early adoption.

I do not believe that we should approach the issue of sunset in a piecemeal fashion. One of the underlying tenets of the sunset bill is the commitment of the Congress to a ten-year schedule for the review and reauthorization of federal programs. That review and reauthorization would be conducted according to a carefully thought out and comprehensive schedule for the reauthorization of those federal programs. Last year, the Senate went on record firmly in support of this commitment. I expect that it will do so again this year. I would urge the supporters of sunset to withhold support for amendments of limited focus and join with me and others in this body who want to see a broader sunset bill become a reality and work for its early adoption.

Sincerely,

EDMUND S. MUSKIE.

Mr. RIBICOFF. Mr. President, I urge my colleagues to reject this amendment.

Mr. PERCY. Mr. President, the subject of this amendment was thoroughly discussed in the Governmental Affairs Committee. After that discussion, the sunset concept was rejected for this particular bill for two basic reasons.

First, the committee has promised to

The Comptroller General has reported on the result of that action. We have already disbanded 800 Presidential advisory committees and commissions and saved millions of dollars. In the previous 10-year period, probably only a very few advisory committees or commissions had been disbanded.

So I am very sympathetic to the principle. The problem is, why single out just one department, one agency. Particularly, I think it would be patently unfair to hold education to termination provisions to which the rest of Government is not subject.

It would defeat the purpose of this bill, which is to improve the efficiency of and the accountability for Federal education programs.

It would also be a signal to many people who now work for the Commissioner of Education. We have had enough turnover as it is—13 commissioners of education in 13 years.

What we would do is single out that one area and indicate to them that we may—we are so uncertain about this—we may end the department. That would cause tremendous uncertainty from the standpoint of the employees.

We have a tough enough time as it is convincing Commissioners of Education to stay on more than a year. In the last 13 years, there have been 13 Commissioners. The Commissioner of Education should be one of the highest jobs in the country, one of the most important responsibilities in the Nation. Yet, we given sunset legislation momentum in both the Senate and House of Representatives which, I believe, will ensure its enactment into law in this Congress.

While I share the broad objectives of those who propose to sunset the Department of Education after a period of years, I am concerned that their amendments would fail to achieve the goals we have set out to accomplish under sunset legislation.

For example, one of the major goals of sunset legislation is to assure that Congress will reauthorize groups of related programs during a two-year Congressional term. The bill does this by requiring that all programs within the same subfunctional budget category be reauthorized during a Congress.

For example, the education subcommittee would have an opportunity to review and reauthorize all of the federal activities under subfunction 501 (elementary, secondary and vocational education) in one Congress. In a later Congress, they would take a look at subfunction 502 (higher education). Both subfunctions would be administered by the Department of Education.

The proposed sunset amendment would terminate the entire Department of Education at once. This would force the education subcommittees and the Congress as a whole to do a superficial job of reauthorizing all of the educational programs under the Department—or it could require the Congress to decide whether the new Department had done a good job without examining how well it had administered the programs under its jurisdiction. That could result in a meaningless review and reauthorization process. This problem is compounded by a provision in one proposed amendment which assumes that if the new Department terminates, its programs would go forward. This makes little sense since it would require the President to transfer the functions of the Department to other departments or agencies without asking whether it was the Department that was the … hold hearings on sunset legislation. Hearings have already been scheduled for May.

Second, discussion regarding sunset legislation has primarily been about sunsetting programs. In fact, the legislation that was adopted by the Senate, authored by Senators MUSKIE and ROTH and cosponsored by many of us, essentially dealt with programs. There has been insufficient discussion throughout the course of our hearings on the concept of sunsetting a department or the ramifications.

Sunset, to be effective, should be applied Government-wide and not in a piecemeal fashion. It is a mechanism for evaluating the size of Government and the necessity of Government programs in a systematic manner.

It is for that reason the committee is committed to considering sunset legislation.

Knowing that the Senate has already acted on the sunset principle, overwhelmingly supported that principle with respect to programs and, as we now approach new hearings in May, we would cordially invite the Senator from California to testify on, "Why not sunset departments and agencies of the Government?"

As a matter of fact, the Governmental Affairs Committee did establish this principle, but we took one whole category. We did not single out any one particular Presidential advisory committee or commission. We put them all under the same umbrella, and we provided for a sunset provision, that they should automatically die after several years unless reinstituted by new legislation.

have had one Commissioner every year for 13 years.

This sunset amendment would create even greater uncertainty, even greater confusion. It would lessen our ability to attract people of high quality for this Department.

Because of those reasons, I strongly urge that we withhold this amendment, which I regretfully would have to oppose, until we have hearings on the sunset bill once again. At that time, we can examine how it would work with respect to agencies and departments of Government. It is a concept that should be studied thoroughly. However, I would hate to see us institute the principle today, on this particular legislation, which might single out education as a particular area above all others that would be subject to termination. I can think of many, many agencies that should be terminated ahead of a new proposed Department of Education.

Mr. HAYAKAWA. I thank the distinguished Senator from Illinois.

Mr. President, I yield to the Senator from New York (Mr. MOYNIHAN).

Mr. MOYNIHAN. I thank the Senator from California.

Mr. President, I have brief remarks to make, but I hope they might be heard in this Chamber and beyond, to explain my position in support of the Senator from California.

Today's subject being education, perhaps we can begin with the ancient maxim of Hippocrates which begins all medical school education. It is translated into Latin, and it continues to this day to constitute the opening lesson in medical schools throughout the world. It simply says, with regard to the duties of a doctor: "Primum non noceo."

Translated, it means, "First, I shall do no harm." It is the abiding insight of the medical profession, and it could well be heeded by this Chamber.

For evidently, today we heed it not; if we are to adopt this bill, surely the sponsors may well hear voiced the deep concern of those who do not agree. Can we not, we might ask, have an experiment with the legislation, with the opportunity to be rid of it, if, as I think it will, it turns out to be very much contrary to our general sense of what we should be involved with at the Federal level?

I will make now a point which perhaps is perhaps, a bit indiscreet. There are those who know that I have said in private conversation that if I were a Republican, I would be very much against this bill, since it is apparently being put forward for the open and avowed purpose of electing a Democratic President in 1980. I shall do all I can to elect a Democratic President, the incumbent President.

However, to bring education into politics at this level denigrates and defies 2 centuries of our tradition. You do not give up 2 centuries of a tradition just to win an election—especially an election we are going to win anyway. It is, to say the least, inappropriate.

Now I should like to say something to my Democratic brethren, especially those who can only see a U.S. Senate dominated by our party. That, I remind my colleagues, is not a provision of the Constitution, and they know that in pri-

I congratulate my fellow educator, who did not cease that role when he entered this Chamber, who never has failed to make thoughtful, if unpopular, remarks. He simply continues a practice of almost 5 decades which has made him one of the most beloved as well as one of the most respected teachers of our time. I shall vote for his amendment.

Mr. HAYAKAWA. I thank my dear friend and distinguished colleague, the Senator from New York (Mr. Moynihan)

Mr. President, I yield not more than 5 minutes to the distinguished Senator from Idaho (Mr. McClure).

Mr. McCLURE. I thank the Senator from California for yielding this time.

Mr. President, I support the amendment, and I commend the Senator from California for having taken this initiative.

I view this amendment in a slightly different perspective from that of some of my friends who are opposed to the creation of the Department of Education, for I am in favor of the creation of the Department of Education and will vote for the legislation.

However, I am very much aware of the criticisms that have been expressed about the creation of the Department and the fears—the legitimate, very sincere apprehensions—by people concerning what the creation of the Department may mean to the values of education, to the role of State and local governments, to the relationship between State and local governments and the Federal Government.

fornia for proposing the amendment. I hope it will be adopted.

Mr. President, I yield back the remainder of the time to the Senator from California.

Mr. HAYAKAWA. Mr. President, I am very grateful to the distinguished Senator from Idaho for his remarks.

I am pleased to know that despite the fact he supports the creation of a Department of Education he does also support the idea of sunsetting it, and that is a very important point.

Mr. President, I now yield to Senator Hatch whatever time he may need. He asked for 4 minutes.

Mr. HATCH. I thank my friend and colleague from California.

Mr. President, I rise in support of Senator Hayakawa's amendment to "sunset" the Department of Education within six years. As many of my colleagues have done, I have cosponsored S. 2, a measure introduced by the senior Senator from Maine, Senator Muskie, to sunset all Federal agencies and departments if they cannot justify their continued existence based on their performance. This concept must also apply to S. 210.

It is time we stopped creating new programs, agencies, commissions, boards, bureaus, and departments without consideration for an end to the burgeoning bureaucracy. I am reminded of a scene in the motion picture "The Agony and the Ecstasy," the story of Michelangelo, whert Pope Julius continually proceeds to the altar underneath Michelangelo's vate we talk in considerable detail about the prospect that we might one day find ourselves a minority in this Chamber. When we do, the views on education that will be adopted in Washington and imposed from Washington will not be the views which we associate with progress and liberality. Any number of views which we now deem utterly repugnant, regarding trade unions, regarding education, regarding the most sensitive of matters, might well be imposed, and we might well have nothing to say about it. Indeed, we might one day find this Chamber moving toward the establishment of religion. We see the roots of this taking hold before us today, for what more constitutes the establishment of religion than the prescription of prayer by the State? That is what constitutes an established religion. How much more interference with the judgment of local schoolboards than to say you may teach or you may not teach something, indeed something as fundamental as human biology and human physiology?

We do not anticipate that ever happening, because we do not anticipate ever being a minority. But we may be, and when we are, these are the measures that may be passed. How, then, will we explain them? It seems to me that prudence and self restraint in this body suggest that the sensible proposal of the Senator from California be adopted.

As to those who are in favor of sunset legislation, why not give it a try? If we deem it a good idea, here is our opportunity to embrace it; and if we do not, then why do we advocate it?

How better can we assure them that we are going to take a very careful look at what really does happen under the creation of the Department, other than to assure them that, at the end of a fixed period of time, we will take another look at the creation or the extension of the creation of the Department.

I think the very reason that the fears are expressed and that they are very real and that they are very sincere justifies the attachment of the sunset provision to the creation of a new department—for the very reasons that we have been talking about sunset legislation all along.

I am a cosponsor of the sunset legislation. I think the proposal is sound. The thing that has concerned me all along in the sunset legislation is that Congress, for political reasons, would find it inexpedient to actually take a look at it. Here we are, getting the first example, even before we become involved in widespread sunset legislation. It is inexpedient now politically even to say that we will just take a look at it.

So we are saying, "No, we are going to create this Department of Education for all time. You do not have to worry about it, friends. This is a political commitment we have made to the political constituency, and it is now beyond the reach of Congress."

I think that is fundamentally wrong, and it is one of the fundamental threats against really valuable sunset legislation and movement within the Government.

For that reason, I support the amendment. I commend my friend from California

scaffolding in the Sistine Chapel and inevitably asks: "When will it be finished?" The similarity between the paintings in the Sistine Chapel and our Government end, however, when we realize that the Michelangelo did, indeed finish his work. For our constituents, playing the role of Pope Julius, there is no end in sight.

Once established, Federal departments and agencies must be held to account for their effectiveness in administration as well as their adherence to Congressional intent. The sunset of the Department of Education will permit the thorough evaluation of the policies and procedures of a Federal entity which affects every single citizen both now and in the future. I will admit that as Senators and Congressmen we need to be pushed into devoting sufficient time for oversight. Our energies seem irrevocably drained in searching for answers to new problems and we are often negligent in checking up on those solutions we have already adopted. Perhaps we should have sunseted the Department of Energy after 1 year.

Senator MUSKIE has made compelling arguments for this concept of conducting oversight of Federal programs and agencies. I believe we ought to heed the experience of our Government that holding Federal programs and organizations in perpetuity is not the best public policy. I commend the Senator from California for offering this amendment. I think it could well apply to all new enacting legislation, and in this instance is certainly appropriate for the Department of Education.

This is a controversial piece of legislation. I think everyone who is voting either for or against it has some qualms because there are arguments that can be made on either side.

I think one qualm that continually buffets me is, are we creating another bureaucracy with more Federal control in an area not contemplated by the Founding Fathers who formulated the Constitution? Unfortunately, I believe this may be the case.

On the other hand, if one stops to think about it, since the Federal Government is intruding so much in education in society today, does not education deserve a Cabinet-level position?

There are many other balancing arguments on either side, and it is a very difficult decision for most Senators here. It being so controversial, so difficult to understand, so difficult to resolve in the minds of most Senators, then should it not be sunsetted in the sense that Senator HAYAKAWA asked for and should his amendment not be given a fair up and down vote in the Chamber? I believe that it should.

I do not think anyone would be hurt by this particular amendment. In fact, if it does work well as the proponents of the bill seem to think that it will, then there should be no fear of sunsetting this bill because I cannot imagine it being reduced in value 6 years hence if it has worked well in the prior 6 years.

Mr. President, I support the amendment of the distinguished Senator from California, and I hope all of my distin-

6 years to determine whether we wish to continue the Department. If we do, the evidence is there to sustain it. If not, if we can find a better way to handle it, if we can save money, if we can promote efficiency, then, of course, we should follow that course.

For those reasons, Mr. President, I favor the amendment of the distinguished and able Senator from California.

Mr. HAYAKAWA. Mr. President, I am very, very grateful, indeed, to the distinguished Senator from South Carolina for his remarks, especially in view of the fact that he, like the Senator from Idaho, is in favor of the Department of Education and at the same time believes in sunsetting this particular legislation. And the fact that both these Senators prefer to look upon this as an experiment to prove itself in the next 6 years is something that appeals to me very, very much.

We are not often enough experimental in this body. We decide things forever without submitting them to reexamination and all these things required.

I also wish to say to my distinguished colleague from Connecticut that I agree thoroughly with the sunset principle and when he holds his meetings in May on this whole principle of sunsetting as it applies to departments as well as programs and so on, I shall be happy to testify at that time.

All I say at this present time is that while I support the sunset principle in general, I wish also to apply it to this

like across-the-board spending cuts which may only reduce the size of our budget. Government reorganization backed by sunset guarantees an effective return on the expenditure of every tax dollar. My purpose in cosponsoring this amendment is to give Congress an opportunity to see how the new Department of Education works before we give it an open-ended lease. I want to add that we would be doing well to attach this type of sunset regulation to more legislation. Had we attached it to the Department of Energy creation bill, we might have had a more coherent energy policy today.

The American people are rightfully demanding that government be efficient and effective, especially in policy areas best left to local levels such as education. If the Department of Education proves its worth, then it can be continued after 6 years. But if not, the bureaucrats running it should know right at the outset that the Department will end.

This amendment, by itself, does not terminate any Federal education programs, for in the event of Department sunset, the programs would be transferred to other departments. But that does not mean that some of these programs should be allowed to escape close examination and possibly termination. That is why we need a comprehensive sunset bill.

Sunset legislation for all government programs is past due. I have supported it strongly in the past, and will continue to during this session. But as we take this decision to create a new department, it is guished colleagues will do likewise.

I thank him for this time and yield back whatever remains to the distinguished Senator.

Mr. HAYAKAWA. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER (Mr. BAUCUS). The Senator has consumed approximately 19 minutes. The Senator has 10½ minutes remaining.

Mr. HAYAKAWA. Thank you, Mr. President.

I yield 3 minutes to my distinguished colleague from South Carolina, Senator THURMOND.

Mr. THURMOND. Mr. President, I rise in favor of this amendment.

I wish to say in the beginning that I intend to vote for the new Department of Education. I do that because I feel that HEW has become so large, the appropriations are so large, and the responsibilities are so large that it would be well to separate the Education Department from the rest of the Department.

I feel, however, that it would not be a bad mistake if we attached such an amendment as this to every new agency or department created in the Government. In other words, after 6 years let us take another look at it.

I favor the same thing in confirmation of judges on the Supreme Court. After 6 or 8 years take another look.

And in view of that, in view of my thinking that no detriment could result and good might come from this amendment, I wish to see the Senate agree to it. I feel that it is sound. It would be helpful and would give us an opportunity after this matter has been tried out for particular legislation because this is one that bothers me very, very much.

We have to start somewhere with some sunsetting. It seems to me that this is as good as any.

I reserve the remainder of my time.

Mr. DURKIN. Mr. President, I am a cosponsor of "sunset" legislation. I am proud to join my distinguished colleague from California, Senator HAYAKAWA, in offering amendment No. 147 to the proposed Department of Education bill. Given the purpose of S. 210—to make Federal education programs more efficient and effective—I believe the inclusion of a sunset provision to this legislation is not only proper but crucial to its final enactment.

The primary responsibility for education in our Nation lies with State and local government. Sunset promises to keep it there. As proposed, amendment No. 147 will give the new Department a 6-year deadline to prove its success in reducing excessive and burdensome regulations, unnecessary duplication and fragmentation in our Federal education programs.

Moreover, it will provide greater accountability. Establishing a new separate Department will create for the first time, a Cabinet-level advocate for education with direct access to the President, the Congress, and the public. Adopting the proposed sunset provision will give added incentive to perform well and show results within a few years.

Mr. President, I can think of few more important acts that this body can take than to approve the Department of Education bill with a sunset provision. Until time for the Senate to let the American people know we are serious about cutting waste by adding a sunset provision to the Department of Education.

I commend Senator HAYAKAWA on his amendment and urge its adoption.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. HAYAKAWA. Mr. President, I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "nay".

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators who have not voted?

The result was announced—yeas 46, nays 48, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—46

Armstrong
Baucus
Bellmon
Biden
Boren
Byrd,
 Harry F., Jr.
Chafee
Cohen
Dole
Domenici
Durenberger
Durkin
Garn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Mathias
McClure
Morgan
Moynihan
Packwood
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—48

Baker
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Heflin
Jackson
Javits
Kennedy
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Nelson
Nunn
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Williams

NOT VOTING—6

Bayh
Gravel
Inouye
Muskie
Sasser
Stafford

So Mr. HAYAKAWA's amendment (No. 147) was rejected.

UP AMENDMENT NO. 113

Mr. HATCH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

However, there is an often used backdoor method by which the bureaucracy manages to circumvent personnel limits and the intent of Congress. Senator MAGNUSON's Appropriations Committee recently investigated the use of consultants at the Department of Health, Education, and Welfare. The April 7 Washington Star reported some of their findings, including the fact that of 29 consultants randomly reviewed, 23 of them were actually filling permanent jobs. A spokesman for Secretary Califano admitted this was true and reiterated that consultants should not be doing the work of permanent employees.

The article stated that we were spending as much as $10 million on consultants at HEW. Mr. President, I can understand why experts and consultants are, in many instances, a boon to our Government in developing ideas and alternatives for the implementation and enforcement of congressional intent.

However, I fail to see how we could possibly be benefitting $10 million worth. I am disturbed by what seems to be a blatant attempt by the executive branch to inflate its personnel without consent of Congress. While the education division of HEW has been more frugal than the National Institutes of Health, or other sunsets of HEW, employing only 205 experts or consultants during fiscal 1978, the Appropriations Committee report cites two specific examples of abuse in the education area and suggests there are others. I commend the distinguished

has been trying to crack down on the rising cost of consultants, ordered his own agency to tighten up procedures after learning of the panel's findings. Many consultants apparently were brought in as a way of getting around President Carter's hiring freeze.

Califano's office hired 188 consultants in fiscal 1978 and paid them a total of $1.6 million. HEW officials told the committee that this is because the secretary appoints experts for longer periods of time and pays them higher salaries than most other agencies.

The National Institutes of Health used 338 consultants and paid them $4.4 million, but NIH officials failed to tell Congress that they paid [illegible] of those experts more than $25,000 each, or that 16 of them earned more than $40,000 each. One NIH official told the panel that he was unaware of the disclosure requirement and that NIH just "blew it."

The Magnuson committee has focused on such consultants as James Buford, who was paid $53,808 even though the law says that no private expert should be paid more than $47,500 in a given year.

Buford was hired as a part-time consultant by the assistant secretary for health in August, 1977 at a rate of $169 a day. His assignment was to improve the quality of care at St. Elizabeth's Hospital, the District's federally run mental institution, and help provide services for patients there who were being returned to the community.

In February, 1978, Buford was converted to a full-time consultant and his salary raised to $182 a day. Six months later, he was switched to a limited appointment in the secretary's office.

Finally, last January, Buford was moved once again, this time to a permanent "political" appointment as a special aide to Assistant Secretary for Health Julius Richmond.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 113.

The PRESIDING OFFICER. The clerk will suspend. The Senate is not in order. The Senate will be in order.

The clerk may proceed.

The second assistant legislative clerk read as follows:

On page 113, line 19, insert after "may"——

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 113, line 19, insert the following after the word "may": "as provided in Appropriations Acts".

Mr. HATCH. Mr. President, last Thursday, the Senate wisely adopted an amendment by Senator BELLMON authorizing for the Department of Education an end strength for personnel, notably in the so-called super-grades, GS–16, GS–17, and GS–18. Senator KASSEBAUM had an amendment expressing this concern as well. I share the opinion of my Republican colleagues that the new Department of Education not become a vehicle for increasing our Federal payroll. The Senator from Connecticut, in accepting these amendments, has also recognized the need to, in as many ways as possible, restrict the growth of Government.

chairman of the Appropriations Committee and his staff for their investigation in this area. Obviously, we could save millions of tax dollars by extending our limits on permanent employees to experts and consultants as well. In addition to providing the Department with some guidelines for using experts and consultants, the amendment would also assure a clearly cut role for Senator MAGNUSON'S committee in the enforcement of the personnel limits already agreed to by the Senate.

Mr. Pres[illegible]t, I ask unanimous consent that the [illegible]hington Star article by Howie Kurtz be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

'78 CONSULTANTS COST HEW $10 MILLION

(By Howie Kurtz)

The Department of Health, Education and Welfare spent nearly $10 million on 2,217 private consultants in the 1978 fiscal year, including one expert who was paid more than $53,000 to give advice on improving care at St. Elizabeth's Hospital.

HEW officials told Congress they paid only 12 consultants more than $25,000 each, but investigators have found that the department actually paid 102 people more than $25,000 for consulting work in the fiscal year that ended last Oct. 1.

These are among the findings of the Senate Appropriations Committee, headed by Sen. Warren Magnuson, D-Wash.

Federal agencies are required to inform Congress of any consultant who is paid more than $25,000 a year. The Appropriations Committee has charged that HEW has used dozens of consultants improperly. The committee plans to hold a hearing on the matter next week.

HEW Secretary Joseph A. Califano Jr., who

Buford said he hadn't read the report and declined comment. But Tom McPhee, HEW's assistant secretary for personnel, said the arrangement was "perfectly legal."

"We actually caught it ourselves and we stopped his payments when they reached $47,500," McPhee said. But he said the General Accounting Office had granted Buford a one-time exception last November and allowed HEW to pay him for the rest of the year.

McPhee added that Buford exceeded the ceiling because he worked Saturdays and because problems with St. Elizabeth's accreditation caused him to stay on far longer than originally planned. McPhee also noted that Buford had been given a political appointment, as opposed to a career job, "and we don't see anything wrong with that."

McPhee conceded, however, that "we've had times when consultants have not been used correctly. Our intention is not to keep them around too long so they don't make that kind of money, but sometimes we lose track of them once they get into the process."

The report said NIH and other agencies were hiring private experts to circumvent the civil service rules. For example:

One consultant was hired in 1973 to run the National Cancer Institute's press office on a day-to-day basis. The individual, who was paid $31,203, was extended on three occasions until 1976, when he was given a career appointment as associate director for cancer communications.

"The individual was to continue performing the same duties he performed as an expert (but) at an annual salary of $36,338," the report said.

The panel reviewed the files of 29 consultants and found 23 were "misused," many of them to fill permanent jobs. One HEW consultant was hired at $95 a day in 1977 to deal with programs for migrant farm workers. Last October, he was given a $27,453 permanent job "to continue to perform the same duties."

McPhee said the report was accurate and

that consultants "should not be doing a job that could be done by permanent employees."

Mr. HATCH. I am thankful that my friend, Senator RIBICOFF, has agreed to this amendment. The Senator has been extremely cooperative and understanding of our concerns on this point and I know he will also work with us to achieve a responsible number of consultants for the new Department and an end to these personnel boondoggles.

Although I prefer to have an amendment which would set a fixed number beyond which the total number of consultants in the Department of Education would not be exceeded, I believe that we have arrived at compromise language which will certainly put the intent of the Senate in the right place, and I think push the Department of Education to do what is right, assuming this bill is enacted.

Mr. President, I personally express my appreciation to my dear friend from Connecticut for the characteristic way in which he always handles these matters.

Mr. MAGNUSON. If the Senator will yield, I want to say that this amendment carries out not only the intent of the Congress but the intent of the Appropriations Committee.

Mr. HATCH. I am grateful to the Senator from Washington for his excellent leadership in the Appropriations Committee. It is my understanding that this amendment will be agreed to. I certainly hope so.

The Senator from California (Mr. HAYAKAWA), for himself and Senator HELMS, proposes an unprinted amendment numbered 114.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. Is this the amendment on which there is a 15-minute time limitation?

Mr. HAYAKAWA. This is an unprinted amendment on which there has been no time agreement, Mr. President.

The PRESIDING OFFICER. The Chair thanks the Senator.

Mr. RIBICOFF. Was a unanimous-consent request made on this amendment?

The PRESIDING OFFICER. The Chair understands that, no, there is no unanimous-consent request with respect to this amendment. Each side has 15 minutes——

Mr. RIBICOFF. The amendment has not been read. I would like to have it read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 85, line 7, after the word "prescribe.", add the following: "Provided that no duty, power, or function of the Director shall include the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any quota, ratio, goal or other numerical requirement related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to the hiring, promotion, or admissions policies or prac-

to destroy opportunities available to people who have suffered from discrimination in the past, but to keep those opportunities from being color-coded handouts. How does the Government decide which group is the most deserving of preferential treatment? Obviously, blacks have suffered greatly, and using HEW's measure, they should be given special consideration. But can we leave out the Jews, who certainly have suffered outrageously, or the Italians, the Irish, the Japanese and Chinese, or the Gypsies, for that matter? Many ethnic and cultural groups can genuinely claim to have been discriminated against.

And why not include people with social handicaps? The young man from the small rural town goes to the big city to look for a job. He is uneducated, his accent is strange, his clothes are wrong, he lacks social graces. Why does he not deserve special treatment? If the Government insists on selecting those who should be shoved to the front of the line, the selection should not be based on skin color alone.

When I was president of San Francisco State College, I resented the Federal Government's interfering with our process of selection.

For example, we were an urban university dealing with students, many of them minorities, many—80 percent of them—working their way through college without the kind of help that we now offer them. HEW people had the nerve to come and tell us what social justice and racial equality mean in educational terms. But

Mr. RIBICOFF. Mr. President, this is a good amendment and I am pleased to see that it also has the support of the chairman of the Appropriations Committee. This amendment is acceptable to the manager of the bill. I yield back the remainder of my time.

Mr. HATCH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, there are a number of other amendments. I do not know whether their authors intend to call them up at this time. I believe Senator HAYAKAWA has another amendment, and I believe there are others.

The PRESIDING OFFICER. Does the Senator from California seek recognition?

UP AMENDMENT NO. 114

Purpose: To Prohibit Director of the Office for Civil Rights from Enforcing Quota Systems

Mr. HAYAKAWA. Yes, Mr. President.

Mr. President, at this time I would like to call up an unprinted amendment in behalf of myself and Senator HELMS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

tices of any institution of higher education."

Mr. HAYAKAWA. Mr. President, today I wish to call upon my colleagues in the Senate to take action against discrimination based upon race, creed, sex, or national origin. We must act firmly. We cannot continue accepting unfair, divisive, and discriminatory practices fostered and mandated by agencies like the Department of Health, Education, and Welfare.

With this new Department of Education, I say let us stop this foolishness now, while we are still in the formative stages of creating a new Department. HEW has a longstanding policy of forcing preferential quotas on the schools of this country. Their vocabulary is quite different from mine, however. They call these plans affirmative action. I call them racial discrimination. The actions taken are really intended to force a reverse bigotry down our throats.

The purpose of the Civil Rights Act of 1964, Mr. President, was to guarantee equal opportunity to all our citizens. What does equal opportunity mean? It should mean that each man and woman has the right to strive, to compete, to accomplish, and to be rewarded. Affirmative action programs and quotas attempt to replace personal effort with preferential treatment. Equal opportunity then becomes selective opportunity, available only to those whom the bureaucracy has selected for special handling.

Last year, I asked the Senate to deny Federal funds for Health, Education and Welfare and Labor Department programs which give preferential treatment to minority groups. My intention was not we had been working on this for decades, since the very foundation of our State college in 1899.

We had always been weighing these problems in social justice and racial equality.

In recent years, Washington, has pushed its foot in the schoolhouse door and created new and sophisticated priorities. Every priority they throw in interferes with the educational process. Teachers have been given new rules and regulations and mandates to deal with. They have had to expand from the basics and they have had to include, although these are not all federally mandated, sex education, bilingual education, driver education, and then, Washington-knows-best education. Then, of course, the mandating of various rules had to do with the proportion of people in the classroom and the proper representation of minorities, and so on. All this has resulted in, for example, the bilingual education program in Japanese in San Francisco, requiring the presence of a certain number of black students who have no desire to learn Japanese; but who are mandated to be there in order to maintain the proper racial proportions. So one regulation piles on top of another regulation, producing absurdities of various kinds, most of them due to the mandates of the Federal Government.

As a result of these events, there has been an enormous deterioration in education in our own time. We have seen semi-illiterates enter college, only to be swept along again by the bureaucratic broom so that we have been compelled to pass them, move them along, give them degrees, so that, after 16 years of education, we find Johnny and Jane "educated" but without the basic skills they need to get jobs and to grow and prosper in our society.

Federal demands for the integration of schools and the integration of colleges has resulted in the enormous loss of jobs for black teachers, black principals, black coaches. Right now, the State of North Carolina is undergoing a very traumatic experience of seeing all their black colleges completely threatened with extinction.

It is not that I hold a particular brief for black colleges as such, but there have been black colleges of distinction. There are certain advantages for a black student to go to a black college if he wants to, where he does not have to think about his relationship with the majority constantly, and be subconsciously worried about his rights, as one always is in a minority situation. I know black people from Chicago who have been educated in integrated schools who deliberately go to black schools in Texas and Nashville, Tenn., so as to be in an all-black university for part of their lives. Now, this is not an ideal solution for their whole lives, but for part of their education, this is something that people have wanted. This existence of these black schools is completely threatened right now because of, should I say, the following of certain unproved theories.

Professor Coleman said, as you all know, in the Coleman report, many years ing some people more favorably and others less favorably because of the shade of their skin, the nationality of their parents, or the gender of their chomosomes.

Americans are sick and tired of the Government's efforts to regulate every part of our lives. They dislike the annoyance, the expense, and the very attitudes attached to it.

We cannot continue to let the Federal Government tell us what to do. Bureaucrats regulate our lives in ways we never dreamed possible.

Congress did not see fit to mandate affirmative action programs by law in 1964, when we passed the great Civil Rights Act and we should not let the executive branch abolish the Civil Rights Act, as they are, in effect, doing.

The amendment which my colleague from North Carolina and I offer today to S. 210 states that the Director of the Office of Civil Rights in this new Department of Education may not require quota systems. The Director could not force such discriminatory practices upon the American people through any rule, regulation, standard, guideline, recommendation, or order.

I respectfully ask my colleagues for their support.

Mr. HELMS. Will the Senator yield?

Mr. HAYAKAWA. I yield to Senator HELMS.

Mr. HELMS. Mr. President, the purpose of Senator HAYAKAWA's amendment, which I am delighted to sponsor, is very Congress in its landmark civil rights legislation.

The legislative history of the Civil Rights Act of 1964 clearly shows the intent of Congress to outlaw preferential employment practices. For example, Senator Hubert Humphrey, then majority whip, maintained that—

> The proponents of the bill have carefully stated on numerous occasions that title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group. (110 Cong. Rec. 14331)

Despite this intent of Congress to prohibit discriminatory practices through the use of numerical quotas and goals, Federal bureaucrats have interpreted "affirmative action" as requiring quotas and goals.

This interpretation of affirmative action is not compelled by any Executive order. Nor is it mandated by any act of Congress. Instead discrimination through the use of quotas and goals is a bureaucratic creation.

Proponents of discriminatory quotas and goals have been partially successful in blurring the distinction between nondiscrimination and affirmative action. In a classic example of Orwellian "newspeak" the Department of Labor characterized affirmative action as part of an employer's larger obligation not to discriminate. This confusion between nondiscrimination and affirmative action has promoted a system in which discrimination is being institutionalized ago, that there were advantages to blacks and whites studying together and so this gave great push to the mandated integration of schools. However, Professor Coleman more recently withdrew that statement and said that there does not seem to be the advantage that he originally thought there was in blacks and whites being in the same classroom.

Although Professor Coleman has changed his mind, HEW has not, and they go charging madly on, on the basis of a 20-year-old report which the author himself has repudiated.

In principle, they are applying their own philosophies independent of the results of educational and psychological research. This is the kind of unresponsive bureaucracy that results from the creation of this kind of almost autonomous agency which is not responsible to the locality which makes North Carolina, or Tennessee or California or North Dakota responsible to that agency, rather than the other way around. That is the danger with this sort of thing and is why I am so very vigorously opposed to this application of dogmas of one kind held by the Washington bureaucrats and applied, without consideration of local disparity, equally to Mississippi, to North Dakota, Guam, Hawaii, Puerto Rico, and so forth, as if these places were all alike.

The great error that our Government has been committing for a long time is enforcing, or trying to enforce a social equality that can only grow naturally. Whether the Government calls it a quota system, a minority ratio plan, a goal, a timetable, or "numerical representation," what it boils down to is treat-

simple.

It is to bring the activity of the proposed Department of Education in line with the Supreme Court's ruling in the Bakke case that the use of quotas in university admissions violate the equal protection clause of the Constitution.

Some of my colleagues may remember that Senator HAYAKAWA and myself last year offered a similar amendment to the Labor/HEW Appropriations Act to prohibit the use of discriminatory racial quotas.

But now that the Court has acted, it is proper and timely for the Senate to endorse the Court's action and move to bring the activity of the Department of Education within the principle of the Court's action.

Mr. President, in a minority opinion in the Bakke case, some justices maintained that Congress intended to permit racial quotas. Of course, those who have followed congressional action on this issue understand that the Congress never intended to promote discriminatory quotas when it enacted laws to promote equal opportunity and treatment.

The concept of affirmative action first surfaced in Executive Order No. 11246, issued by President Johnson in the wake of the recently enacted Civil Rights Act of 1964. It requires employers to "take affirmative action to ensure that (people) are treated * * * without regard to their race, color, religion, sex, or national origin." However, Federal agencies administering this Executive order have failed to articulate a constitutionally proper meaning for "affirmative action" which is consistent with the intent of under the guise of a nondiscrimination program.

Under the present bureaucratic formulation, affirmative action is, in reality, affirmative discrimination. Within the academic community it has created a system of reverse discrimination. Affirmative action quotas and goals inescapably produce a situation where discrimination is commonplace. Edward Levi, former U.S. Attorney General and past president of the University of Chicago, rejected HEW's claims that the goals it repeatedly imposes are different than numerical quotas. He said:

> The country has been on a program where affirmative action, requiring the statement of goals, is said with great profoundness not to be the setting of quotas. But, it is the setting of quotas.

Similarly, the Supreme Court in its Bakke decision had semantic arguments concerning whether the activity of the University of California amounted to a quota or a goal. The Court said:

> The parties fight a sharp preliminary action over the proper characterization of the special admissions program. Petitioner prefers to view it as establishing a "goal" of minority representation in the medical school. Respondent, echoing the courts below, labels it a racial quota.
>
> This semantic distinction is beside the point: The special admissions program is undeniably a classification based on race and ethnic background. To the extent that there existed a pool of at least minimally qualified minority applicants to fill the 16 special admissions seats, white applicants could compete only for 84 seats in the entering class, rather than the 100 open to minority applicants. Whether this limitation is described as a quota or a goal, it is a line drawn on the basis of race and ethnic status.

The guarantees of the Fourteenth Amendment extend to persons. Its language is explicit: "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." It is settled beyond question that the "rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. They are personal rights." Shelley v. Kraemer, supra. at 22. Accord, Missouri ex rel. Gaines v. Canada, supra at 351; McCabe v. Atchison, T. & S. F. R. Co., 235 U.S. 151, 161–162 (1914). The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal.

Mr. President, in closing I would like to share part of an open letter to President Carter, sponsored recently by the Committee on Academic Nondiscrimination and Integrity. In it, over 40 prominent educators describe quotas and preferential treatment as illegal, unconstitutional and short-sighted.

The signers of the letter include Dr. Sidney Hook, of the Hoover Institution, Prof. Nathan Glazer, of Harvard University, Prof. Valerie Earle of Georgetown, Prof. Eugene Rostow of the Yale Law School, Prof. Maurice Rosenberg of Columbia Law School, Prof. Paul Seabury of the University of California at Berkeley, and Prof. Allan Ornstein of the University of Chicago. The letter reads in part as follows:

> Dear Mr. President:
>
> According to the New York Times of March 18, 1977, Secretary Califano of H.E.W. has enthusiastically endorsed racial and sex-

Mr. HAYAKAWA. I am glad to do so.

Mr. RIBICOFF. Mr. President, I make a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is well taken. The amendment is not in order because it introduces new subject matter. The amendment would be referred to another committee. The point of order is therefore well taken, and the amendment is not in order.

Mr. HAYAKAWA. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I move to lay on the table the motion of the Senator.

Mr. HELMS. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the

NAYS—32

Armstrong
Baker
Byrd,
  Harry F., Jr.
Cochran
Danforth
Dole
Domenici
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Morgan
Moynihan
Pell
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—9

Bayh
Church
Gravel
Inouye
Muskie
Riegle
Sasser
Stafford
Young

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Mr. MORGAN. Mr. President, last Thursday, I offered an amendment to the pending bill which would have required that legislation be passed before any additional programs or agencies be transferred into the proposed Department. Unfortunately, my amendment was defeated by a vote of 38 to 45.

Mr. President, I will not take the time of the Senate by once again discussing in detail why my amendment is necessary. Suffice it to say that I thought the President should not be given the opportunity, or the temptation, to try to circumvent the legislative process with regard to proposals that the Congress had considered and rejected.

I am bringing this matter to the attention of the Senate today because the debate on my amendment, as well as the earlier debate on the amendment by the Senator from New York (Mr. MOYNIHAN), ual discrimination which we believe to be unjust and illegal. In offering his support to racial quotas and preferential policies in hiring and admissions, your Secretary has bid defiance to the Civil Rights Act of 1964, to Executive Order 11246, to the Equal Protection Clause of the Constitution of the United States as interpreted consistently by the Supreme Court, and to basic principles of civil rights.

Many of us have long felt that the so-called "goals and timetables" programs were in reality discriminatory quota programs, masked to conceal their illegality. We owe Secretary Califano thanks for the candor with which he announces his support for racial and sexual discrimination. But candor cannot atone for flagrant defiance of law. . . . In one stroke, Secretary Califano proposes to arrogate to himself the power to determine who shall and who shall not enjoy equality of opportunity in our country, and reduces the Constitutional rights of all citizens to privileges bestowed at the caprice of government.

We note with dismay Secretary Califano's justification of discrimination, namely that it "works." Of course, discrimination "works." It benefits the favored groups and damages the others. . . . But let us assure you as educators, Mr. President, that discrimination has never and will never work to produce the best possible education for all Americans, and let us assure you as citizens that it has always worked to destroy justice and fairness and has always created cynicism, conflict and more discrimination.

I thank the Senator from California for yielding to me and for permitting me to cosponsor this amendment with him.

Mr. RIBICOFF. Mr. President, will the distinguished Senator from California yield back his time, because I do want to raise a point of order?

Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. RIEGLE), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER. Does any Senator desire to vote?

The result was announced—yeas 59, nays 32, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—59

Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Exon
Glenn
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Sarbanes
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams

has raised some disturbing questions which I believe the Members of the Senate should be aware of before their vote on final passage.

It is my impression that most Senators who favor the creation of a separate Department of Education favor the establishment of a limited Department. At various stages in the legislative process, the Senate deleted the child nutrition programs, Head Start, Indian education, and most of the National Science Foundation programs from the proposal advanced by the President and the distinguished chairman of the Governmental Affairs Committee.

Unfortunately, the debate on the Moynihan and Morgan amendments on Thursday made it crystal clear that these amendments have only been accepted for the purposes of getting the Department of Education established, and that the President and the sponsors of this bill fully intend to misuse the President's reorganization authority to expand the Department thereafter.

The distinguished senior Senator from Connecticut all but said so on Thursday, when he said:

> I know that after 40 years of politics, 50 percent of something is better than 100 percent of nothing. I also know that you can be so doctrinnaire in your objectives that not only do you not achieve what you seek, but you lose everything you are striving for. Sometimes it is better to get 50 percent and wait a few more years to try to accumulate the other 50 percent.

As an explanation of how to get the most out of the legislative process, the Senator's logic is faultless. Having been a Member of the North Carolina General Assembly and the Congress for a total of nearly 20 years, I must admit that were I the sponsor of the pending bill that I would be following the very tactics the Senator from Connecticut has chosen.

The defeat of my amendment on Thursday has made one thing inevitable: there will be no limited Department of Education. A vote to establish a separate Department of Education will be the equivalent of a vote to establish a Department of Education which includes Head Start, the child nutrition programs, Indian education, and the National Science Foundation.

Let me repeat what was stated during the debate last week:

> Sometimes it is better to get 50 percent and wait a few more years to try and accumulate the other 50 percent.

I have no objection to proponents of a comprehensive Education Department attempting to expand the Department through the normal legislative process. While I would almost surely be opposed to some attempted transfers, I would be openminded and might even support others. But, since the Congress has now explicitly rejected legislation calling for the transfer of a number of programs into the proposed Department, I do not believe it would be appropriate to try and circumvent Congress through nonlegislative means.

And certainly, this is what is intended. Last Thursday, in response to a statement by the senior Senator from New thermore, he would have to get this majority to support an action which, in the case of Department of Education reorganizations, would be opposed by the President and probably the chairman of the Governmental Affairs Committee as well. Congressional inaction would lead to the approval of the reorganization plan, and thus, the burden of proving one's case, and rounding up support, and so forth, would be on the individual Senator.

The exact opposite is true should the reorganization plan be proposed in the form of legislation. Inaction would lead to the rejection of the proposal. Therefore, the sponsors of the reorganization would have to prove their case and would have to find a majority in the Senate willing to support them. The workload would not be on an individual Senator, but rather on the administration with all its massive resources.

I also note, briefly, that the legislative process is more likely to guarantee thorough consideration of an issue, as compared to a reorganization plan with the 60-day time limit on its consideration.

The difference between the legislative process and that under the Reorganization Act is highlighted by the administration's attempt to create a Department of Natural Resources through the latter. The only reason, that I am aware of, for sending this proposal to the Congress as a reorganization plan instead of as legislation is because the Congress would be of the Department of Agriculture to the new Department of Education.

The child nutrition programs are designed to achieve health, agricultural, and income maintenance objectives. The largest of these programs happen to operate primarily in the schools. The transfer of these programs to an Education Department seems to be predicated more on the fact that both child nutrition programs and traditional education programs are run through schools, than on potential benefits to child nutrition, education, or administration at any level of Government.

The legislative history of the National School Lunch Act of 1946 indicates that it was enacted to fulfill four objectives. Subsequent legislation expanding the program, or adding new programs, has reiterated the same objectives:

To safeguard the health and nutritional well-being of the Nation's children;

To provide a domestic outlet for commodities acquired through the Department's price support and surplus removal activities;

To promote good eating habits in children by exposing them to a variety of wholesome foods; and

To provide economic assistance to low income families.

Over thet past year, the greatest single concern expressed about the child nutrition programs in the media has been the quality of meals served to children and the need to upgrade these meals. The

Mexico on the need to transfer the Indian education programs out of the Bureau of Indian Affairs, and into the proposed Department, the chairman of the Governmental Affairs Committee stated:

> I think the Senator from New Mexico has very cogently indicated why the Morgan amendment should be defeated. . . . The amendment would prevent the President from using his reorganization authority to impose the transfer of any function.

Let me emphasize:

> The amendment would prevent the President from using his reorganization authority to impose the transfer of any function.

It does not matter what the Congress desires, it does not matter what the public wants, or even what the constituents of Indian education want. My amendment had to be defeated because it prevented the President from imposing his will on an uncooperative Congress.

If the Congress actually wanted to create a comprehensive Department of Education, it would be one thing. However, the defeat of the Moynihan amendment on Thursday, coupled with the actions of the Senate with regard to the transfer of individual programs, makes the will of the Senate in this area quite clear.

During the consideration of my amendment, the floor managers of the bill implicitly denied that there was any real difference between defeating legislation and defeating a reorganization plan. As you are aware, Mr. President, the difference is quite significant.

Although any individual Senator can force a reorganization plan to a vote, he has only 60 days in which to get the support of a majority of the Senate. Further unlikely to pass such a bill.

This is a gross abuse of the Reorganization Act, as the chairman of the Governmental Affairs Committee has acknowledged. I believe that if the President is prepared to misuse the Reorganization Act to create a new Department over congressional opposition, they would certainly be willing to try and effect a simple transfer over congressional opposition.

Let me conclude by restating the two clearest statements concerning the intentions of the administration and the proponents of a comprehensive Department of Education—

> Sometimes it is better to get 50 percent and wait a few more years to try and accumulate the other 50 percent.
>
> I think the Senator from New Mexico has very cogently indicated why the Morgan amendment should be defeated. . . . The amendment would prevent the President from using his authority . . . to impose a transfer of any function.

Last week, the distinguished Senator from Alaska said that he thought the transfer of Indian education, Head Start, and the child nutrition programs was inevitable without the passage of my amendment. I agree fully with that assessment, and would urge my colleagues to consider, before voting on final passage, that a vote for final passage is the equivalent of a vote to transfer these three programs into the new Department.

● Mr. TALMADGE. Mr. President, I am pleased that the Senate rejected the amendment to S. 210 proposed by the Senator from New York (Mr. MOYNIHAN) to transfer the child nutrition programs very success or failure of the school food programs rest on the quality of meals.

When meals do not satisfy nutritional standards, or are thrown away rather than eaten, the basic purposes of the program are subverted and millions of dollars of Federal funds are wasted.

To serve quality school meals, schools need to know how to purchase and prepare foods that contain proper nutrient levels, are appetizing, and are economical. To make progress toward these goals, school food service personnel need assistance in how to procure high quality food economically, how to process and prepare it, and how to store it so that nutrient values are retained.

School food personnel who are not skilled in procurement can end up with ground beef that has a high fat content, foods with high salt or sugar content, or other nutritional quality problems. In addition, schools can pay higher amounts than are necessary for food items.

To help school districts across the country do a better job is a major undertaking. The Department of Agriculture is taking on this task and has the necessary expertise to do so. A Department of Education is unlikely to have either the inclination or the expertise to get into this area.

In rural Georgia, a USDA expert has helped a nine-school district cooperative education service agency develop an integrated program of food procurement which allows schools to purchase better food at a lower cost.

In Nashville, Tenn.; Fresno, Calif.; and southwestern Colorado, USDA specialists have acted as a catalyst in developing a system of direct purchases of fresh produce from local farmers. This has eliminated the extra charges of middlemen and improved the quality of the food served to schoolchildren. These projects have also had significant nutrition education aspects, with farmers explaining food production in the classroom and children occasionally picking fresh produce at nearby farms. These projects show great future potential, and USDA is developing model projects for expansion. The projects help develop markets for family farmers at the same time that they improve lunches for children.

A primary reason why small local food purchasers, such as school districts and hospitals, have had difficulty achieving the efficiency USDA has in large scale community operations is a lack of current [illegible] information and how to use that information.

Through the Market News Services of the Agricultural Marketing Service USDA has been providing up-to-date price information to producers, processors, and wholesalers for years. Now, USDA has developed an information kit which explains to institutional food buyers how to take advantage of current price information to economize on food procurement. This project was a cooperative effort involving the Agricultural Marketing Service and the Food and Nutrition Service.

Another key area in child nutrition is the basic nutritional standards that

Elsewhere in SEA, the Human Nutrition Center is conducting research into such areas as the importance of trace minerals in the diets of children—research that is also vital to, and coordinated with, the operation of child nutrition programs.

Finally, to help assure that the best quality food is provided with the available resources, ESCS is now involved in 16 major studies concerning FNS food assistance programs. Most of these studies are concentrated in the child nutrition area. ESCS is now conducting studies on the proper level of both food and administrative reimbursements for the summer food program, and on related questions of food quality and food prices and profit margins by private vendors in the summer program.

ESCS has designed an array of studies on the nutritional, economic, administrative, and agricultural impacts of providing cash in lieu of commodities to school districts and is involved in the field tests of changes in school meal patterns. Most of these studies cut across several disciplines—from nutritional to agricultural economics—and it is not likely they could be adequately handled by a Department of Education.

In the foreseeable future, the Federal Government will come into possession of increasing stores of surplus agricultural commodities. A Department of Education would have no particular concern with the use of the child nutrition programs as a domestic outlet for surplus commodities.

The reason generally given for moving the child nutrition programs to a Department of Education is to facilitate educational administration at the State and local level. Upon close examination, this contention turns out to be weak.

Commodities would still come from USDA. States would have to deal with two Federal Departments in the operation of food service programs, not one.

The uniformity of Federal program requirements directed through Treasury and OMB circulars, plus integration that has already occurred between FNS and the Office of Education, means that little additional administrative simplification could take place. The particular records and administrative requirements in the child nutrition programs stem from the distinct reimbursement structures carefully constructed for these programs by Congress over the past 30 years: By and large, the same records would still have to be kept. They would simply be submitted by the State to a Department of Education rather than to USDA.

Transfer of these programs to an education department offers no significant opportunities for long-range reduction in administrative costs and burdens at Federal, State, or local levels.

The short-term disruption caused by transfer would be an added cost. Where opportunities exist for reducing administrative costs by integrating FNS and Office of Education activities, integration now takes place.

USDA establishes for meals. These standards are based on nutrition research conducted by USDA's Science and Education Administration (SEA). The Department recently established a Human Nutrition Center within SEA as a focal point for research in this area.

The Food and Nutrition Service (FNS) works with SEA to design research that will provide information in determining the nutritional standards needed in these programs and to test specific proposals for alterations in meal patterns used in the programs.

Last year, FNS proposed the most major changes in the school lunch meal pattern since the passage of the National School Lunch Act in 1946. These proposals were based on several years of work by SEA. Plans are now in final stages for field tests in hundreds of schools of these and other changes in the meal patterns. USDA's Economics, Statistics, and Cooperatives Service (ESCS) is playing a major role in designing and developing these field tests, which will carefully analyze both economic and nutritional impacts of the proposed change.

In addition, SEA, FNS, and ESCS are also working together to mount major nutritional evaluations of the child nutrition programs. The National Food Consumption Survey, conducted by SEA, is collecting information on participation in child nutrition programs and its nutritional impact. SEA is now discussing plans with FNS and ESCS for a major, multiyear nutritional evaluation of the school lunch program, and has been provided funds by Congress for this purpose.

modities.

The existence of agricultural stabilization and children nutrition programs withim USDA permits the development of an integrated food and nutrition policy that used surpluses when they exist, and maintains the necesary framework for this function by providing commodities purchased at market prices when surpluses have been exhausted.

USDA is able to serve a dual objective—both to support the agricultural economy and to provide nutritious food items to schools and other institutions that care for children.

Even during periods of surplus, USDA supplements the surpluses with purchases of other, nonsurplus commodities that schools need. Such a balanced approach would be difficult to work out with a split jurisdiction on which USDA procures and ships commodities but a Department of Education administers the programs where the commodities are used.

Two particular problems would be likely to arise as a result of a transfer. Housing these programs in a Department of Education could lead to an emphasis on providing more in the way of cash subsidies and less in commodities, with posible adverse effect on agricultural producers. At the same time, a transfer could lead to adverse effects on the types and variety of those commodities that would still be provided to schools.

There is now a balance in the Department's commodity purchase decisions between serving the needs of schools and moving surplus agricultural products.

While a transfer would not accomplish much in the administrative area, it could seriously jeopardize the strength and well-being of the child nutrition programs.

Among educators, child nutrition programs are often perceived as an expendable service to education. Faced with budgetary constraints and the need for trade-offs, Federal education administrators might sacrifice child nutrition efforts.

Successful food service is usually found in schools where administrators view the child nutrition programs as an integral part of the education program, while poor quality food service is frequently found in schools where child nutrition programs are viewed as ancillary to the education program.

Some States are contemplating the shifting of responsibility for the administration of such programs out of State education departments, and Texas has already announced plans for such a move.

Moving the child nutrition programs to a Department of Education would place the programs in an organization which is not concerned with the formulation or execution of nutrition policy; and second, it would whittle away at the total array of interests competing within the Department of Agriculture.

Overall, there is little real gain from moving child nutrition programs to an Education Department. There is risk of substantial loss, however, from such a move. The linkages with human nutrition research, food and consumer economics, agricultural impact studies, food specification writing, and food inspection in USDA would all be lost. Program operation and commodity purchases would be split, thus making the commodity operation more susceptible to pressures to act largely as a surplus removal operation.

While some attempt to take child nutrition away from the Department, others are making blatant and public attempts to steal the natural resource functions of USDA.

Others have been moving stealthily to capture the rural development functions of the Department.

I can understand their avarice. Since I have been chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I have always sought to make the USDA a broad-based Department that represents farmers, consumers, and city dwellers.

The USDA is conservatively operated. Its agencies rank among the best insofar as Federal employee productivity is concerned. Agriculture's share of the Federal budget has declined sharply over the past decade, to only about 3 percent of the Federal budget. Only $6 billion of the funds for the Department of Agriculture are for agricultural programs, while $8.6 billion are for food and nutrition programs. This means that just 1.2 percent of the 1978 Federal budget was earmarked for the support of agricultural programs.

I am not so much concerned about the declining share of the Federal budget a related package of Federal efforts that serve rural America.

The second question that a functional approach to reorganization raises is the desirability of competition between agencies. General Motors, which I think we will agree has had some business success, is organized along competitive lines. The Oldsmobile Division competes with the Buick Division, which competes with the Chevrolet Division, for customers of automobiles. This organizational success, and others like it, would seem to indicate that—while there is a definite need to streamline the Government and eliminate excessive overlap of functions—there is something to be said for having agencies compete with one another. A merging of agencies on a purely functional basis could certainly lead to departmental complacency and bureaucratic laxity. If you have the only store in town, it is easy to forget about customer service.

There is no way to make successful a functional reorganization of the Government; if we have not learned that as a result of the creation of the Department of Transportation and the Department of Housing and Urban Development, then we have learned nothing. There remain large chunks of Government activity dealing with housing and transportation which remain outside the jurisdiction of both of these agencies, and that is why Senator McGovern's statement is so compelling.

The taxpayers are not telling us to move the organization boxes around in an exercise of managerial hokus-pokus. They want the Government to be leaner and more effective. They want it to spend educational system at the Federal level, with the expected result that this would trigger improved services at the State and local levels. Because of the attractiveness of this goal, I suspect that many individuals and groups have given support to the idea of a separate Department of Education as a means for demonstrating their support for a solid educational network within this country.

RECONCILIATION WITH LAST YEAR'S VOTE

Last year, the Senator from Kansas was one of those who voted in support of a bill to create a separate Department of Education. At that time, I had mixed emotions as to the merits of the legislation, and I confess that I still have some contradicting thoughts on this issue. However, in the time since we voted on last year's legislation, I have had an opportunity to reflect further on this situation, to visit with more of my constituents, and to assess more fully what the long-term implications of a separate department would be. I have come to the conclusion that a separate Department of Education is not the answer to the educational problems in our country nor will it provide the proper framework from which to address our problems. Admittedly, there are many arguments set forth in support of the Department which sound attractive. It would be nice to think that a Department of Education would eliminate duplication of staff jobs within HEW; it would be nice to believe that administrative costs would be cut; it would be nice for agriculture, because this decline is a tribute to agriculture's success in meeting its obligations.

My distinguished colleague from South Dakota, Mr. McGOVERN, made an outstanding statement about Federal reorganization as it impacts on the Department of Agriculture, on February 8 of last year when he introduced, with Senator DOLE, S. 2519. I ask that this statement be included in the RECORD at this point:

> It seems to me that it might be well to examine this reorganization process as it has been set up, to see what kinds of conclusions might be reached.
>
> First of all it has been established on a functional or incremental basis, which pressures that like kinds of activities ought to be lumped together so as to avoid duplication of effort.
>
> What concerns me about this presumption is that certain agencies are multifaceted in their activities. For instance, the Department of Agriculture manages and conserves national forest lands. This management is tied intimately to national wood and fiber policy on private lands. Most of the private forest lands are held by farmers, whose land is also the base from which we get our food. These private lands are protected through the policies of the Soil Conservation Service. Farm income is protected by the Farmers Home Administration and the Agricultural Stabilization and Conservation Service, as well as other USDA agencies. Various shifts in farm and forestry economies, such as the pitifully low prices farmers are now receiving, having a decided impact on the economies of rural towns, which leads naturally into the department's rural development efforts.
>
> Like the facets on a diamond ring these functions are irrevocably tied together into less money and employ fewer people.

In transferring the child nutrition programs to an education department, the opportunities for reductions in cost or administrative burdens in accounting requirements are virtually nonexistent. The accounting manuals used at the local level for both FNS and the Office of Education programs were developed by the same accounting firm, with the specific aim of making accounting procedures in both agencies' programs compatible. Differences in these accounting procedures reflect the differences between food service and other educational services. In addition, OMB Circular A-102 sets general standards on Federal accounting requirements for all Federal grant-in-aid programs.

Therefore, the proposal to move the nutrition programs will save the taxpayers not one thin dime, while the cost of the transfer will be substantial.

But, as I said, the piecemeal dismantling of USDA is the broader issue. I for one do not intend to sit idly by while this raid on USDA is being conducted by people who do not even know how to spell "farm." I am appalled that certain persons in the executive branch and Congress are literally falling all over themselves to see how many functions they can yank out of the USDA.●

● Mr. DOLE. Mr. President, the legislation now before the Senate, S. 210, proposes the creation of a separate Department of Education. Over the years this idea has surfaced periodically from Congress to Congress. It seems to me that this is an idea which was presented to the Congress as a way of improving our to believe that the Department would be able to reduce paperwork which schools have to complete; and it would be nice to believe that the rate of student default on Government loans would decrease. However, it has not yet been proven to me that we need a separate Department of Education to accomplish these objectives. It is also difficult for me to believe there are not persons in the Government now who could consolidate and eliminate educational programs. In other words, if the administration and the Congress wanted to seriously address these problems, I believe that the administration has the authority and capability to eliminate nonessential, duplicatory offices within the Office of Education.

PROBLEMS IN EDUCATION.

Most parents and educators have serious concerns about the state of education in the United States today. Few persons, if any, are satisfied with their public school system. Students are often disruptive, teachers often unmotivated, and parents often apathetic. The results of standardized achievement tests show a steady decline in test scores. In reaction to this phenomenon, any number of theories have been formulated to explain where education has gone wrong. Whatever the reason, one cannot say the decline in test scores results from lack of Federal dollars.

FEDERAL SPENDING

Federal spending has increased many times over from the days the Office of Education was created within the Department of Health, Education, and Welfare in 1953, and when it operated on a

$400 million budget. Under President Johnson and his initiatives in social legislation, Federal spending for education increased 10 times over, reaching $4 billion. Now, Federal spending in this area is about $10 billion annually. Whatever shortcomings we see in the field of education, it does not seem likely that they are related to a lack of Federal funding. Given the documented increase in Federal spending for education, it seems a rather weak argument to assert that the office of Education has been slighted within HEW. To the contrary, I feel that education programs have prospered within the Department of HEW, and that several monumental advancements have taken place or are evolving.

ACCOMPLISHMENTS UNDER CURRENT SYSTEM

Mr. President, I have touched upon the tremendous increases in funding which the Office of Education has enjoyed. However, I would not like to leave the impression that we have not made advances in the field of education. To the contrary, I think in recent years we have made tremendous strides in improving educational opportunities for all Americans.

For instance, we are making progress in our promotion of racial integration. While the situation is far from ideal, there can be no argument but that millions of American students are participating in an integrated school system. Likewise, HEW is helping to see that Public Law 94-142, the Education for All Handicapped Children Act, is being im- despite problems, progress has been made and it is legitimate, I think, to expect progress to continue. Let us attack problems and weaknesses on an individual basis—let us not create even more bureaucracy which if anything will tend to camouflage the problem.

Mr. President, I am not about to suggest that we do not need changes in the discipline of education, for we do. I simply suggest, however, that the problems in our educational system are not the result of insufficient attention on the part of HEW to education in and of itself. We do not need to build another department simply to demonstrate that we believe in the goodness of education. I do not deny that there are problems in the way the Office of Education has functioned in the past. We do not build a new house when we simply need to rearrange the living room furniture. I feel that the problems and dissatisfaction which I see expressed in the Office of Education can be combated with a structural reorganization within the Office of Education.

WEAKNESSES OF THE DEPARTMENT OF EDUCATION

Mr. President, recently I received a letter from the president of one of the Kansas universities. He is a man who I respect, and I was, therefore, interested in his analysis of this bill. He pointed out that one of the strong aspects of our American education system is its diversity. From school district to school district and from State to State authorities are given a great deal of leeway as to what type of education is most appropriate for students in that area. I think we have a tendency to think that if something small is doing an adequate job, something larger would do a more adequate job. After having watched the phenomenal growth of the Department of HEW, I think that this is a possible outcome should this legislation be enacted.

NEEDS OF CHILDREN

Finally, I would like to suggest that the creation of the Department is in answer to demands made by teachers and school administrators. I can understand how these persons would think that a separate department would give them more clout within the Government. However, what most disturbs me is the fear voiced by several children's advocacy groups that when this legislation was drafted, there was little thought given to its impact upon children. Do we know that a separate Department of Education would improve services to children? It seems to me that the Department could have just the opposite effect—it could further fragment educational, social, and health services to children. In addition, I think that it will become harder and harder for individuals' parents to provide input on their child's educational system, and that concerned parents may feel an even greater sense of futility than they do now. Do we not see the irony that as Federal aid to education has increased dramatically, national test scores have declined significantly? I fear that a Department of Education would give Washington more complete control plemented, and that millions of handicapped children are having educational opportunities which they have never had access to before. In addition to serving racial minorities and handicapped students, the needs of children with poor English usage have been noted, and bilingual programs made available wherever possible. Currently, the department is in the process of issuing final regulations for implementation of Title IX of the 1972 education amendments. Final regulations are now being considered on this title which provides men and women with equal opportunity in competitive sports. I hope that in the near future we shall see results of the work HEW has done in this area. In addition, there is now more money available for loans to lower- and middle-income students. Indians have access to better education services, and through an expanding Title I of the Elementary and Secondary Education Act, economically disadvantaged students are afforded better education opportunities.

I think that these accomplishments are significant, because they are meaningful changes, and they have provided better services to children. In addition, child nutrition programs have been expanded, and while jurisdiction for these programs falls outside of HEW's realm, I think it correct to say that an interest in the child as a whole helped Congress to recognize the importance of the nutrition and its effect on learning. This litany in no way exonerates HEW for duplication of staff, needless administrative entanglements, or excessive regulation of schools. Instead, I think it points out that we deceive ourselves if we do not admit that creation of a separate Department of Education would effectively lead us to the point where we have a Federal education policy. Historically the educational needs of children have been determined by State and local authorities. I believe this is sound. It is not tradition which ties me to this philosophy, but rather a belief that educational responsibility should remain vested at the local level. In recent years, the Federal Government has played an increasing role in education, but I do not think it yet dominates public education. I think the balance would quickly change were this legislation to be enacted, regardless of the lipservice within the bill to the maintenance of local control.

Also related to this fear is the very real risk that a separate department would tend to politicize education. While doubtless a certain amount of that exists now, I think a separate Department of Education would simply fan political fires. To my way of thinking, education is neither Republican nor Democratic, but rather it is competent or incompetent. I would prefer that to the extent possible, education be quarantined from political forces. One way to do this is not to create a separate department.

One other nagging fear which I have is that rather than eliminating jobs, regulations, and other obstructions, the Department would tend to expand in either a conscious or unconscious effort to justify its existence. Sometimes our reasoning gets skewed to the point where we think that bigger is always better. While we might never admit this aloud, I think many of us would recognize that over our educational system, with the not unlikely result that schools will receive less and less community support.

The business of educating our students must be done close to home, close to the providers of revenues, and close to the students who reflect the educational process. Parents, teachers, students, and administrative officials should all participate in this process. As the Federal Government begins to dominate our school systems, these individuals will have little opportunity or encouragement to join forces for improving our educational system. Individual or small group voices cannot shout loud enough from Kansas to be heard in Washington.

CONCLUSION

Mr. President, I share with the sponsors of this bill a feeling of anxiety over the future of our educational process. I do not believe, though, this bill is the most responsible answer to the problem. Apparently, many others agree. Last year, persons working with Head Start objected strenuously to being included in the new Department. The committee agreed to leave Head Start where it is. This year, apparently, the transfer of Head Start was not even considered.

Likewise, last year a majority of Senators felt that the nutrition programs should remain within the Department of Agriculture, rather than be transferred to the Department of Education. This year, apparently the committee acquiesced without protest. Similarly, the American Indians objected to the inclusion of Indian education programs in the new Department. This year, the committee did not even attempt to transfer Indian education programs. This indicates to me that there is widespread worry that a new Department of Education would encroach on the autonomy of smaller programs. It also raises the question of the justification behind a Department of Education which does not have jurisdiction over all education programs.

For the reasons set forth, the Senator from Kansas finds he cannot support legislation creating a separate Department of Education. I continue to recognize that there are problems in the area of education, but after further study I remain unconvinced that this is the best solution to the problem. I fear that problems now rampant within the Office of Education will continue to exist, only under the auspices of a department rather than an office within a department. Creating a department could very well magnify the problems rather than resolve them. And finally, I fear that this legislation sets a disturbing precedent which would lead to Federal domination of educational programs, without improving education to the individual student.●

NO TO A DEPARTMENT OF EDUCATION

● Mr. SCHMITT. Mr. President, the debate on S. 210, the Department of Education bill, has been enlightening. The proponents of the Department have assured us that this Department will not infringe on the local and State control of education. They have assured us that this bill will not create a new bureaucracy with the inevitable costs associated with such a bureaucracy.

for a third reading and was read the third time.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today.

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIBICOFF. Mr. President, I yield back all of the remainder of my time.

Mr. PERCY. I yield back the remainder of our time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

Mr. STEVENS. I announce that the

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I want to take this opportunity to give special praise to the distinguished Senator from Illinois (Mr. PERCY), the ranking member of the Governmental Affairs Committee, for his outstanding cooperation and hard work to make this victory possible; and also to the entire membership of the Governmental Affairs Committee for their cooperation throughout the hearings, the markup, and the passage of this bill. I want to especially thank Senator LEVIN, who floor managed the bill during my absence, as well as Dave Hansell of his staff.

I also want to pay special tribute to three members of the majority staff, Marilyn Harris, Bob Heffernan, and Dick Wegman, and to Lawrence Grisham of the minority staff. They have been tireless throughout the difficult periods of the consideration of this legislation during the last session and this one. Their knowledge is deep and wide.

Without their sterling help it would have been impossible to reach the final result that we did. They have done yeoman service, and I just want to express my personal and committee pride for their outstanding achievements throughout the consideration of this legislation.

During this debate numerous amendments have been offered to insure protection against the excesses of this infant monster. These amendments have been fought by the proponents of the bill and have been defeated independent of merit.

Mr. President, last Thursday, the senior Senator from Connecticut (Mr. RIBICOFF) remarked that he supports efforts to include all Federal education programs including Indian education, veteran education, Head Start, and so forth, in this proposed Department, but that political realities prevents this prospect at this time. He further stated that he hopes these programs will be transferred to the new Department by the President under his reorganization authority.

Thus, the true intentions of the proponents of S. 210 have come to light. If the Senate passes this bill and the Department of Education becomes a reality, then we will have a new bureaucracy which will be costly and, more importantly, dangerous. I have no doubt that within a few years we will see further federalization of our education process. We will see less diversity and less control by parents, teachers, and locally elected education officials.

For these reasons, the Senate should reject this bill and work to improve education by attacking its real problems, not just the symptoms of those problems.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed

Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators wishing to vote?

The result was announced—yeas 72, nays 21, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—72

Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—21

Armstrong
Byrd,
Harry F., Jr.
Cohen
Dole
Exon
Goldwater
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Morgan
Moynihan
Proxmire
Schmitt
Schweiker
Tower
Wallop
Warner

NOT VOTING—7

Bayh
Church
Gravel
Inouye
Muskie
Sasser
Stafford

So the bill (S. 210), as amended, was passed.

I ask that the other staff members who have worked so diligently on this bill be recognized for their fine contributions:

Charlotte Tsoucalas, Senator JACKSON; Marsha McCord, Senator EAGLETON; Carnie Hayes, Senator CHILES; Bob Harris, Senator CHILES; Cheryl Davis, Senator NUNN; Jack Weatherford, Senator GLENN; Dru Smith, Senator SASSER; Sandy Dickey, Senator PRYOR; Alan Bennett, Senator JAVITS; Nancy Anderson, Senator ROTH; May Ann Simpson, Senator STEVENS; Jill Porter, Senator MATHIAS; Susan Collins, Senator COHEN; Bob Banks, Senator DANFORTH; Bob Maitinka, Senator DURENBERGER.

Also I would like to thank Franklin Sweig, Mike Forscey, Mike Goldberg, Senator WILLIAMS; Jean Frohlicher, Senator PELL; and Pat Forsythe, Senator RANDOLPH; staff of the Labor and Human Resources Committee.

Also, I want to thank David Boies, Senator KENNEDY; and Jim Davidson, Senator CULVER; of the Senate Judiciary Committee.

Lastly, I wish to especially thank Susan McNally, of the Senate Legislative Counsel's Office, who assisted the committee so diligently.

Mr. PERCY. Mr. President, once again it has been a great pleasure and honor for me to work with my distinguished chairman, Senator RIBICOFF.

I do not imagine there is a piece of legislation the Senate has passed that has been more identified with one Senator and more identified with his entire past. As Governor of a State, Secretary of HEW, a Senator of the United States, and chairman of the Governmental Affairs Committee, there is no one better qualified to think through the problems of education and to resolve the problem of how we can pull together a multiplicity of programs from throughout the Federal Government, put them into one department, and yet do so in such a way that we are absolutely committed to the principle of local and State control of education.

The skillful way in which this was done, the drafting of the bill by Senator RIBICOFF, and the work done by the members of the Governmental Affairs Committee on both the majority and minority sides have been a source of inspiration.

I should like to express my deep appreciation to Marilyn Harris and Robert Heffernan of Senator RIBICOFF's staff, to Nancy Anderson of Senator ROTH's staff, to Robert Banks of Senator DANFORTH's staff, to Alan Bennett of Senator JAVITS' staff, and, obviously, also to the distinguished chief counsel of the Governmental Affairs Committee, Mr. Wegman, who has worked without any consideration for his own personal life, who has devoted himself to this legislation, and has done so in an utterly bipartisan spirit, always taking into account the wishes and feelings of others, but also persisting in moving us ahead.

We are deeply grateful, of course, to tion, the skill, and the ability that he has demonstrated in managing this bill through the hearings and here on the floor today. I congratulate the ranking Republican member (Mr. PERCY) on his diligence, as well as his ability and skill.

I think we have here again a demonstration of how the majority and the minority have cooperated in working together, as we have so many times seen Senator RIBICOFF and Senator PERCY working together and bringing legislation to the floor.

I personally want to express my thanks to both of them for their cooperation with the leadership.

Mr. BAKER. Mr. President, will the majority leader yield

Mr. ROBERT C. BYRD. I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader. I wish to express praise to him, on behalf of myself and the floor leaders on this measure, both the majority and minority. This measure is not one that has yet been acted upon by our colleagues in the other body, but I might say parenthetically I hope they will address themselves to it before this session of Congress is over.

I congratulate the distinguished Senator from Illinois (Mr. PERCY) for his dedication to the enactment of this measure, and to his staff and, of course, to my own staff member who, I would like to say for the first time on the floor of the Senate, was voted by Ebony magazine to be one of the 50 future black leaders of America.

I could not be more proud than to have Lawrence Grisham work with me, as he has for a period of almost 9 years now. He came from the late Congressman Metcalfe's staff, over from the House to the Senate. He has been a tower of strength to me and it is always an inspiration to work with him.

May I have just 30 seconds for a Record insertion?

Mr. RIBICOFF. I want to finish this out first.

Mr. PERCY. All right.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 210.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the chairman of the committee (Mr. Ribicoff) on the dedica-

the chairman of the committee, the distinguished Senator from Connecticut (Mr. Ribicoff) who, as the Senator from Illinois has pointed out, has special competence in this field and is especially well qualified to present this legislation.

I, too, am especially well pleased with the bipartisan management in the presentation of the bill.

Mr. RIBICOFF. Mr. President, I thank the majority and minority leaders for their kind comments, which are deeply appreciated, and I thank them both for their cooperation.

Mr. PERCY. Mr. President, I would like also to express my appreciation, and I would like to join also in the Record insert today that was made earlier.

With the leadership we have working with us, it has been a great honor and privilege to serve in this capacity.

On one occasion last week when I was unable to be on the floor, the distinguished Senator from Missouri (Mr. Danforth) substituted for me, and I wish to take this occasion to express my appreciation to him.

96th Congress }
2d Session }
COMMITTEE PRINT

LEGISLATIVE HISTORY
OF
PUBLIC LAW 96–88
DEPARTMENT OF EDUCATION ORGANIZATION ACT

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
PART 2

Printed for the use of the Committee on Governmental Affairs

59-333 O
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1980

941
JUN 2 1980

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96TH CONGRESS
1ST SESSION

S. 210

AN ACT

To establish a Department of Education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1979".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access to education for all Americans;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments,

public and nonpublic educational institutions, communities, and families;

(4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments;

(5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(7) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. It is the purpose of this Act to establish a Department of Education in order to—

(1) enable education to receive the appropriate emphasis at the Federal level;

(2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(4) encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services;

(5) enable the Federal Government to coordinate its education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(6)(A) provide assistance in the support of basic and applied educational research; (B) collect and ana-

lyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level; and

(7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

SEC. 103. (a)(1) The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic

educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(b) Nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs.

DEFINITIONS

SEC. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents.

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department. The Under Secretary shall assure that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary shall assure that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States, the local school systems and other instrumentalities of the States, and tribal governments concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) Local education authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other subdivision of the Department.

(3) If the Under Secretary determines that such a conflict does exist, the Under Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with his recommendations for the correction of the conflict. The Under Secretary, together with the appropriate Federal agency, shall consider such cases of conflicting regulations within a period not to exceed ninety days, and shall make recommendations for resolving such conflict,

including any appropriate relief for the local education authority or authorities bringing the case to the Department.

(4) The Under Secretary shall perform such additional duties and exercise such additional powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, of this title, United States Code.

(5) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Vocational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) a Director of the Office of Bilingual Education and Minority Affairs;

(H) one additional Assistant Secretary;

(I) a General Counsel; and

(J) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) The Assistant Secretary appointed pursuant to subsection (c)(1)(H) shall administer the functions of the Department under section 203(11) and shall perform such additional

duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to vocational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(8) administration of schools for the overseas dependents of personnel of the Department of Defense;

(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(10) public information;

(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c).

The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(3)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the

Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF VOCATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Vocational, Adult, and Community Education, to be administered by the Assistant Secretary for Vocational, Adult, and Community Education appointed under section 202(c). The Assistant Secretary for Vocational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe. The Secretary, through the Assistant Secretary for Vocational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special

Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(3)(A)(x) (including the functions of the Bureau for the Education and Training of the Handicapped), 301(b)(3)(G), and 301(b)(4), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator

shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(3)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301(b)(3)(E), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF BILINGUAL EDUCATION AND MINORITY AFFAIRS

SEC. 211. There is established in the Department an Office of Bilingual Education and Minority Affairs, to be administered by a Director of Bilingual Education and Minority Affairs, who shall be appointed by the Secretary and shall be compensated at the rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code. The Director and the Secretary shall consult concerning policy decisions affecting education programs of the Department which affect minorities, including those programs which relate to bilingual education. The Director shall coordinate the administration of bilingual education programs by the Department. The Director shall report directly to the Secretary, and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. In carrying out the provisions of this section, the Director shall consult with the Director of the Office of Bilingual Education.

OFFICE OF GENERAL COUNSEL

SEC. 212. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 213. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.

(b) The Inspector General Act of 1978 is amended—

(1) by inserting in section 2(1) "the Department of Education," immediately after "Commerce,";

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and

(4) by inserting in section 11(2) "Education," immediately after "Commerce,".

(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 214. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of recommendations concerning intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(E) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. The

Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regulations. Within thirty days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.

(c)(1) The Council shall be composed of twenty-five members. One member shall be the Under Secretary of Education. The President shall appoint—

(A) eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary);

(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;

(C) two members from among governing boards of public and nonpublic postsecondary institutions; and

(D) six members from among the public, including parents, teachers, students, and public interest groups.

(2) In making appointments under this subsection, the President shall—

(A) Consult with a broad cross section of organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including but not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations; and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

(3) Not more than thirteen of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the

period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The Council shall elect one of its members as Chair of the Council.

(f) Any vacancy in the Council shall not affect its power to function.

(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold hearings either as a whole or as a subcommittee, for the purpose of discussion, coordination and review of (A) intergovernmental concerns and (B) issues concerning structural relationships between various Federal departments and agencies, as such concerns and issues relate to the functions of the Council specified in subsections (a) and (b); and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(i) The Council or any subcommittee shall not compel the attendance or testimony of witnesses or the production of books, records, correspondence, memorandums, papers, or other documents.

(j) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS-17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 215. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement of the administration and coordination of federally funded education programs in carrying out its role of assisting State and local governments in their responsibility for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their worklife.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policymaking officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;

(6) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of the Department of Health, Education, and Welfare;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the Handicapped.

(b)(1) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(C) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare which are administered through the Office of the Secretary of Health, Education, and Welfare and which directly relate to functions transferred by this section.

(3) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under—

(i) the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(iii) the Higher Education Act of 1965;

(iv) the Emergency Insured Student Loan Act of 1969;

(v) the Act of August 30, 1890 (26 Stat. 417);

(vi) title II of the Elementary and Secondary Education Act of 1965;

(vii) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(viii) the International Education Act of 1966;

(ix) the National Defense Education Act of 1958;

(x) the Education of the Handicapped Act;

(xi) the National Commission on Libraries and Information Science Act;

(xii) the Vocational Education Act of 1963;

(xiii) the Career Education Incentive Act; and

(xiv) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council;

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through

the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(F) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107-107f).

(4) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

(5) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(6) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(7) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependents of personnel of the Department of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependents' Education Act of 1978).

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a)(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this Act

pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except the functions or programs or parts of programs, as determined by the Director of the Office of Management and Budget, after consultation with the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in section 301(a)(1) of this Act, no mission oriented research functions or programs of the National Science Foundation or of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) The annual report to be transmitted by the Secretary pursuant to section 427 shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under sections 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF LABOR

SEC. 306. (a) There are transferred to the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 307. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 308. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

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EFFECT OF TRANSFERS

SEC. 308. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

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OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

the individual occupied on the day before the effective date of this Act.

(c)(1) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(2) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment to that position.

(d) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(e)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

Sec. 402. The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

Sec. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for

the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(b)(1) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to seventeen thousand two hundred and thirty-nine positions.

(2) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

Part B—General Provisions

AUTHORITY OF THE SECRETARY

Sec. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

Sec. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

Sec. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;

(B) Teacher Corps;

(C) Community College Unit;

(D) National Center for Education Statistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Office of Career Education;

(K) Office of Non-Public Education;

(L) Institute of Museum Services; and

(M) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare; and

(4) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(d) Whenever the President exercises the authority under section 302(c), the Office of Dependents' Education of the Department of Defense shall lapse.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. (a) The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

(b) In promulgating such rules and regulations, the Secretary shall make all reasonable effort to alert the appropriate officials of the local education authorities as to the purpose and content of the proposed rule or regulation.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 302, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

Sec. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

Sec. 424. The Secretary is authorized to establish a working capital fund, to be available, to the extent provided in an appropriation Act and without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary finds to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department;

(C) the coordination of the functions of the Department; and

(D) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs, to be accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. (a) Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

(b) Section 400A(a)(3)(B) of the General Education Provisions Act is amended to read as follows:

"(B) Each request for collection of information or data acquisition activities shall be submitted to the Director of the Office of Management and Budget by each relevant Federal agency at the same time that it is submitted to the Secretary for review and coordination under this section. Whenever the Director of the Office of Management and Budget exercises his authority under section 3509 of title 44, United States Code, he shall make a decision thereon within the review period provided in subsection (b) and shall furnish such decision to the Secretary and to the Federal Education Data Acquisition Council. The decision of the Director shall control, unless the Secretary, in carrying out the provisions of this section, determines that additional elements in the proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly in which case the decision of the Secretary shall control. If the Director does not exercise his authority under such section 3509, within the review period provided in subsection (b), the decision of the Secretary under this section shall control.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year, such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule

contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to any function transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

Sec. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

Sec. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(70) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(128) Assistant Secretaries of Education (6).

"(129) Director of the Office for Civil Rights of the Department of Education.

"(130) General Counsel of the Department of Education.

"(131) Inspector General of the Department of Education.".

(f)(1) Section 5316(41) of title 5, United States Code, is repealed.

(2) Section 5316 of such title is amended by adding at the end thereof the following:

"(152) Administrator of Education for Overseas Dependents of the Department of Education.

"(153) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof

"the Department of Health and Human Services, the Department of Education,".

(h)(1) Section 203 of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting "Education, the Secretary of Health and Human Services,".

AMENDMENTS TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. (a) Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

(b) Section 303(c)(3) of such Act is amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ per centum of the amount allocated pursuant to section 202(a).".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

AMENDMENTS TO THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

SEC. 511. (a)(1) The last sentence of section 1410(a)(1) of the Defense Dependents' Education Act of 1978 is amended by striking out "an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school" and inserting "an equal number of representatives of professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school".

(2) The last sentence of section 1410(b) of such Act is amended by striking out "Secretary of Defense" and inserting "Secretary of Education, in consultation with the Secretary of Defense,".

(b)(1) Section 1411(a) of such Act is amended—

(A) by striking out "Defense" in the first sentence and inserting "Education"; and

(B) by striking out paragraphs (1) through (3) and inserting the following:

"(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the Council;

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force; and

"(4) a representative of the Secretary of Education and of the Secretary of Defense.".

(2) Section 1411(b) of such Act is amended—

(A) by striking out "three" and inserting "two"; and

(B) by amending paragraph (1) to read as follows:

"(1) of the members first appointed under such paragraph, six shall serve for a term of one year and six shall serve for a term of two years, as determined by the Secretary of Education at the time of their appointment, and".

(c) Section 1411(c)(2) of such Act is amended to read as follows:

"(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—

"(A) the development of an efficient mode of operation of the system in the Department of Education;

"(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

"(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system.".

REDESIGNATION

Sec. 512. (a) Notwithstanding the provisions of section 601, the Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the

Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

COORDINATION OF PROGRAMS AFFECTING HANDICAPPED INDIVIDUALS

SEC. 513. The Secretary of Health and Human Services shall establish within the Office of the Secretary of Health and Human Services an identifiable administrative unit to identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, and to promote efficiency among such programs. Such unit shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

TRANSITION

SEC. 514. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

Passed the Senate April 30 (legislative day, April 9), 1979.

Attest:

Secretary.

95th CONGRESS
2d Session

H. R. 13343

IN THE HOUSE OF REPRESENTATIVES

June 29, 1978

Mr. Brooks (for himself, Mr. Thompson, and Mr. Drinan) introduced the following bill; which was referred to the Committee on Government Operations

---

A BILL

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act".

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Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

Sec. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof, and the term "Secretary" means the Secretary of Education.

(b) As used in this Act, "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

TITLE I—FINDINGS AND PURPOSE

FINDINGS

Sec. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of the individual and to the growth of the Nation;

(2) the current structure of the executive branch fails to give adequate recognition to the importance of education;

(3) the responsibility for education has been and must remain primarily with State, local, and tribal governments; public and nonpublic institutions, communities, and families;

(4) there is a continuing need to insure equality of educational opportunity;

(5) there is a continuing need to improve the quality of education; and

(6) the number, fragmentation, and complexity of Federal education programs has created management problems at the Federal, State, local, and institutional levels.

PURPOSE

Sec. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United

States. Establishment of this department will help insure that education issues receive proper attention at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. It is therefore the purpose of this Act to establish an executive department to be responsible for—

(1) continuing and strengthening the Federal commitment to insuring equal educational opportunities for every individual;

(2) promoting the quality of education and its relevance to individual needs, with special emphasis on basic skill development, academic excellence, and lifelong learning opportunities;

(3) broadening the approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, communities, the workplace, and other institutions;

(4) promoting effective partnerships among Federal, State, local, and tribal governments, the private sector, public and nonpublic institutions, community organizations, and families to improve the utility and quality of education;

(5) providing leadership in support of research relating to human development and learning systems;

collecting and analyzing information on the progress and condition of American education; and sharing findings of such research and analysis with State, local, and tribal officials, other Federal agencies, public and nonpublic institutions, community organizations, and parents;

(6) improving the design and management of education and related programs by simplifying Federal processes and procedures and by eliminating unnecessary requirements and constraints on the recipients of Federal funds;

(7) encouraging the involvement of parents and the community in development and implementation of education programs and services;

(8) providing leadership to Federal efforts to improve the quality of and access to education, through interagency cooperation, technical assistance, and evaluations of program effectiveness; and

(9) assessing the potential contribution of institutions of higher education to the attainment of national goals, bringing the problems of such institutions to the attention of appropriate departments and agencies, and recommending measures that foster the continuing vitality of such institutions.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level I of the Executive Schedule under section 5312 of title 5, United States Code. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Under Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and

Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department seven principal officers who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and seven principal officers who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Such officers shall perform, in accordance with applicable law, such functions as the Secretary shall from time to time prescribe in accordance with the provisions of this Act. The functions which the Secretary shall assign to the principal officers include, but are not limited to, the following:

(1) intergovernmental relations functions;

(2) congressional relations functions;

(3) public information functions;

(4) management and budgeting functions;

(5) planning, evaluation, and policy development functions; and

(6) monitoring, supervising, and assisting in parental and public involvement in the development and implementation of departmental programs.

(b) (1) When the name of a person to serve as one of the principal officers created by subsection (a) of this section is submitted to the Senate for confirmation, the President shall designate whether that person shall hold a position compensated at level IV of the Executive Schedule or at level V of such Schedule, and the particular functions the person shall exercise upon taking office.

(2) Except as otherwise expressly required by this Act, and notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate and reallocate functions of the Department among the officers of the Department and name and rename the titles of the offices they hold as the Secretary may deem appropriate.

OFFICE OF INSPECTOR GENERAL

SEC. 203. There shall be in the Department an Office of Inspector General under the direction of an Inspector General, who shall be one of the principal officers established by section 202 of this Act. The Inspector General shall have the functions transferred by section 301 (b) of this Act and shall perform the same functions with respect to all functions of the Department, or of any officer or component thereof.

GENERAL COUNSEL

SEC. 204. There shall be in the Department a General Counsel, who shall be one of the principal officers established by section 202 of this Act.

RESEARCH AND IMPROVEMENT FUNCTIONS

SEC. 205. There shall be in the Department an office to administer functions relating to research, development, and dissemination with respect to improved education and training practices whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

FUNCTIONS RELATING TO ELEMENTARY AND SECONDARY EDUCATION

SEC. 206. There shall be in the Department an office to administer functions relating to elementary and secondary education whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

FUNCTIONS RELATING TO POSTSECONDARY EDUCATION

SEC. 207. There shall be in the Department an office to administer functions relating to postsecondary education whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

OFFICE FOR CIVIL RIGHTS

SEC. 208. (a) There shall be in the Department an Office for Civil Rights whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act who is compensated at the rate provided for level IV of the Executive Schedule.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 301 (a) (2) (A).

CHILD NUTRITION FUNCTIONS

SEC. 209. (a) There shall be in the Department an office to administer child nutrition functions whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 302 (a).

FUNCTIONS RELATING TO EDUCATION OF INDIANS, ALASKAN NATIVES, AND ALEUTS

SEC. 210. (a) There shall be in the Department an office to administer functions relating to the education of Indians, Alaskan Natives, and Aleuts, whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 303 (a).

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS DEPENDENTS

SEC. 211. (a) There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 304 (a).

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter referred to as the "Council"). The Council shall conduct studies and make recommendations to the President and the Secretary for improving the intergovernmental system for developing and carrying out educational policies.

(b) The Council shall—

(1) provide a forum for representatives of educational interests to discuss educational and related policies;

(2) study the most desirable allocation of educational and related responsibilities among the several levels of government;

(3) make recommendations for improving the administration and operation of Federal education and education-related programs;

(4) promote better intergovernmental relations while insuring that Federal objectives are achieved;

(5) assess the capacity of the educational system to deliver equitable and effective education;

(6) submit a triennial report to the President and the Secretary reviewing the impact of Federal education policies upon State, local, and tribal governments and public and nonpublic educational institutions and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions; and

(7) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable and effective education.

(c) (1) The Council shall have twenty members appointed by the President, with four of such members to be selected from each of the following categories:

(A) elected State, local, and tribal officials;

(B) citizens, including parents and students;

(C) representatives of civil rights and other public interest groups;

(D) representatives of public and nonpublic preschool, elementary, and secondary education, including board members, administrators, and teachers; and

(E) representatives of public and nonpublic postsecondary education, including board members, administrators, and teachers.

(2) Each member shall have a term of four years, except that—

(A) no member who is a State, local, or tribal official may serve on the Council beyond the period that such member holds the office from which such member was appointed to the Council; and

(B) the President shall designate each of the initial appointments in each category under paragraph (1) of this subsection for a term of one, two, three, or four years.

(3) The President shall designate one member to chair the Council.

(d) The Secretary shall provide such funds, space, staff, and other assistance as may be necessary for the effective operation of the Council.

(e) The Council shall remain in existence until terminated by Act of Congress.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 213. (a) There is hereby established a Federal interagency Committee on Education (hereinafter referred to in this Act as the "Committee").

(b) The Committee, after study, shall make such recommendations as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary; and

(4) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall be composed of the Secretary, who shall chair the Committee, and representatives designated by such Federal agencies, commissions, and boards as the Secretary may from time to time deem appropriate with regard to the matters under consideration.

(d) The head of each component of the Executive Office of the President may designate a staff member to attend meetings of the Committee as an observer.

(e) The Committee shall meet at least twice each year.

(f) The Secretary shall, and each Federal agency represented on the Committee under the provisions of subsection (c) of this section may, furnish funding and other necessary assistance to the Committee.

TITLE III—TRANSFERS OF FUNCTIONS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions vested in the Assistant Secretary for Education or in the Eduction Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions principally involving education vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare, including, but not limited to, functions—

(A) of the Office for Civil Rights relating to education;

(B) under the General Education Provisions Act;

(C) under section 808 of the Elementary and Secondary Education Act of 1965;

(D) under the Emergency School Aid Act;

(E) under the Higher Education Act of 1965;

(F) under the Emergency Insured Student Loan Act of 1969;

(G) under the Act of August 30, 1890 (26 Stat. 417);

(H) under the Environmental Education Act;

(I) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(J) under the International Education Act of 1966;

(K) under the National Defense Education Act of 1958;

(L) under the Education of the Handicapped Act;

(M) under part B of title V of the Economic Opportunity Act of 1964;

(N) under subparts I and II of part C of title VII and part B of title VIII of the Public Health Service Act;

(O) under the National Commission on Libraries and Information Science Act;

(P) under the Vocational Education Act of 1963;

(Q) relating to Gallaudet College, Howard University, the American Printing House for the

Blind, and the National Technical Institute for the Deaf;

(R) under the Model Secondary School for the Deaf Act; and

(S) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(3) authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education, except that the Secretary may terminate or combine one or more of such advisory committees;

(4) all functions vested in the Institute of Museum Services in the Department of Health, Education, and Welfare or in any officer thereof; and

(5) all functions vested in the Advisory Council on Education Statistics.

(b) There are hereby transferred to the Inspector General of the Department all functions vested in the Office of Inspector General the Department of Health, Education, and Welfare, or in any officer of such office, relating to functions transferred to the Secretary by this Act.

TRANSFERS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of Agriculture or the Department of Agriculture under the National School Lunch Act and the Child Nutrition Act of 1966, except functions vested in the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 and administrative functions involved in commodity distribution.

(b) In setting nutrition standards for the programs transferred to and vested in the Secretary by subsection (a) of this section, the Secretary shall consult with other Federal agencies having significant responsibility for nutrition policy.

(c) The Secretary is authorized and directed to transfer to the Secretary of Agriculture the funds necessary to acquire commodities in support of the functions transferred by subsection (a) of this section. The Secretary shall consult with the Secretary of Agriculture with regard to the preferences of States for and ability of States to use commodities available for distribution.

TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 303. (a) There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The transfer of functions effected by subsection (a) of this section shall not alter in any way the existing trust responsibilities of the United States for the Indians, Alaskan Natives, and Aleuts, or the existing eligibility standards for programs transferred under subsection (a) of this section.

(c) Not later than three years after the effective date of this Act, and every three years thereafter, the Secretary shall transmit to the Congress a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts.

(d) Notwithstanding the provisions of section 601 of this Act, the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories effected by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, bands, Indian organizations, and other groups.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 304. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of

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Defense or the Department of Defense relating to the operation of schools for overseas dependents of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education of overseas dependents of personnel of the Department of Defense.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred and authorized by this section.

(d) Notwithstanding the provisions of section 601 of this Act, the transfer of functions specified in subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 305. (a) There are hereby transferred to and vested in the Secretary all programs, established prior to the effective date of this Act, of the National Science

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Foundation or its Director relating to science education pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except those programs (1) of fellowships and traineeships integral to the support of scientific research and development or (2) relating to ethical, value, and science policy issues or to communicating science values to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a) of this section.

(c) In conducting the programs transferred by subsection (a) of this section, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 306. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 307. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 308. The transfer of a function or program from an officer or agency to the Secretary or to the Department includes any aspects of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(b) (1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108 (a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed, or proposed, as of June 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108 (a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS-16, GS-17, and GS-18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position and duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108 (a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position leaves such position.

(c) In addition to the number of positions which may be placed at the GS-16, GS-17, and GS-18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may—

(1) with respect to the office established by section 205 of this Act, appoint professional and technical employees of such office, not to exceed one-third of the total number of employees of such office; and

(2) appoint not more than fifteen transitional employees,

without regard to the civil service laws and may fix compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The authority provided by clause (2) of this subsection, appointments made thereunder, and the authority to compensate personnel appointed thereunder shall expire three years after the effective date of this Act.

(d) (1) There are authorized for the Department seventy-one additional positions in the competitive service at grade levels GS-16, GS-17, and GS-18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one

of the positions authorized by this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of such positions and make necessary reductions.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS-16, GS-17, or GS-18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 per centum shall be deemed GS-16 positions, 25 per centum shall be deemed GS-17 positions, and 12 per centum shall be deemed GS-18 positions.

(e) Those functions to which section 12 of the Act of June 18, 1934 (48 Stat. 986), or other Indian preference laws are applicable immediately prior to the effective date of this Act, and which are located in the office established by section 210 of this Act shall continue to be subject to such laws.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates

not to exceed the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

ADVISORY COMMITTEES

SEC. 403. The Secretary is authorized to establish, combine, or terminate such advisory committees as the Secretary may deem appropriate to assist in the performance of the functions vested in the Secretary or the Department.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary or any officer or employee of the Department may exercise, in carrying out such function, any authority or part thereof available by law (including appropriation Acts) with respect to such function to the official or agency from which such function was transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function vested in the Secretary to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions vested by this Act in any organizational unit or component.

RULES

SEC. 424. The Secretary is authorized to prescribe, in accordance with chapter 5 of title, United States Code, such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

CONTRACTS

SEC. 425. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State, local, and tribal governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

(b) Notwithstanding any other provisions of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, in carrying out any function vested in the Secretary.

(b) The Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations (including Indian tribes and tribal organizations) or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 432. There is hereby authorized to be established for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary, with the approval of the Director of the Office of Management and Budget, shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act, in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 10 per centum and no such transfer shall result in increasing such appropriation above the amount authorized to be appropriated.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practicable after each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of these objectives, the more effective and efficient management of the Department, and the coordination of its functions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any other functions that may be vested in the Department and the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

TECHNICAL ADVICE

SEC. 438. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions vested by law in any agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component

thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, offices, and other entities terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, Department, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by inserting immediately after paragraph (24) thereof the following:

"(25) Principal Officers, Department of Education (7).".

(f) Section 5316 of title 5, United States Code, is amended by inserting immediately after paragraph (24) thereof the following:

"(25) Principal Officers, Department of Education (7).".

(g) Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"Consultation With the Secretaries of Education and of Health and Welfare

"Sec. 306. The Secretary of Labor shall consult with the Secretary of Health and Welfare with respect to arrangements for service of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such services include, but are not limited to, basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

(h) (1) The Indian Self-Determination and Educational Assistance Act is amended by inserting after section 102 the following new section:

"Sec. 102A. (a) (1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the Secretary from the Department of the Interior under the Department of Education Organization Act, except that the Secretary may initially decline to enter into any contract requested by an Indian tribe if the Secretary finds that (A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory; (B) adequate protection of trust resources is not assured; or (C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

"(2) The Secretary, in arriving at such finding, shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to—

"(A) equipment,

"(B) bookkeeping and accounting procedures,

"(C) substantive knowledge of the program to be contracted for,

"(D) community support for the contract,

"(E) adequately trained personnel, or

"(F) other necessary components of contract performance.

"(3) Whenever the Secretary declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary shall—

"(A) state objections in writing to the tribe within sixty days;

"(B) provide, to the extent practicable, assistance to the tribe or tribal organizations to overcome such objections; and

"(C) provide the tribe with a hearing, under such rules and regulations as the Secretary shall promulgate, and an opportunity for appeal on the objections raised.

"(b) The Secretary is authorized to require any tribe requesting that he enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.".

(2) Section 104 of the Indian Self-Determination and Educational Assistance Act is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

"(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such work, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

"(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102(a) if this Act.".

(3)(A) Section 8 of the Act of August 5, 1954 (68 Stat. 674), is amended by inserting "102A," after "102,".

(B) Section 6(a)(2) of the Military Selective Service Act of 1967 (81 Stat. 100) is amended by inserting before the period the following: "or the Department of Education Organization Act".

(h) (A) Section 103 of the Indian Self-Determination and Educational Assistance Act is amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Welfare".

(B) Section 106 of such Act is amended by inserting "102A," after "102," each place it appears in such section.

(C) Section 106(g) of such Act is amended by striking out "and Health, Education, and Welfare" and inserting in lieu thereof ", Health and Welfare, and Education".

(D) Section 107(a) of such Act is amended by striking out "and of Health, Education, and Welfare" and inserting in lieu thereof ", of Health and Welfare, and of Education".

(E) Section 107(c) of such Act is amended by striking out "the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Health and Welfare, and the Secretary of Education".

(F) Section 109 of such Act is amended by inserting "102A," after "102,".

(G) Section 5(c) of such Act is amended by striking out "or the Secretary of Health, Education, and Welfare," and inserting in lieu thereof ", the Secretary of Health and Welfare, and the Secretary of Education".

(i) Section 103(c)(2)(B) of the Elementary and Secondary Education Act is amended by adding at the end

thereof the following new sentence: "The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

(j) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education" after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Welfare, the Department of Education,".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare, the Secretary of Health and Welfare, or the appropriate official of the Department of Health and Welfare, respectively, except to the extent such reference is to a function transferred to the Secretary or the Department by this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 505 (b) (2) of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may,

with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

95th Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 95-1531

DEPARTMENT OF EDUCATION ORGANIZATION ACT

August 25, 1978.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Brooks, from the Committee on Government Operations, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 13778]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Operations, to whom was referred the bill (H.R. 13778) to establish a Department of Education, and for other purposes, having considered the same, report favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 5, beginning on line 5, insert "to administer Federal education laws." after "executive department" and strike out "to be responsible for" and everything that follows through line 16 on page 6.

Page 8, line 13, strike out "six" and insert in lieu thereof "seven".

Page 9, line 4, strike out "monitoring, supervising," and insert in lieu thereof "monitoring", and beginning on line 4, strike out "in parental and".

Page 13, after line 6, insert the following new section (and redesignate the succeeding sections accordingly):

FUNCTIONS RELATING TO SPECIAL EDUCATION AND REHABILITATION SERVICES

Sec. 209. (a) There shall be in the Department an office to administer special education and rehabilitation services functions whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by sections 301(a)(2)(J) and 301(a)(3) of this Act.

(c) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

Page 16, beginning on line 8, strike out section 211 through line 13 on page 17.

Page 18, lines 17 through 19, strike out subparagraph (I) (and redesignate succeeding subparagraphs accordingly).

Page 18, lines 20 and 21, strike out subparagraph (J) (and redesignate succeeding subparagraphs accordingly).

Page 19, after line 20, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

> (3)(A) all functions with respect to or being administered through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;
>
> (B) all functions of the Secretary of Health, Education, and Welfare under sections 405(a)(5) and 405(c) of the Rehabilitation Act of 1973;
>
> (C) all functions with respect to or being administered through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, popularly known as the Randolph-Sheppard Act (20 U.S.C. 107–107f);

Page 23, beginning on line 23, strike out "one-third of the total number of employees of such office;" and insert in lieu thereof "one hundred and forty individuals;".

Page 24, beginning on line 11, strike out subsection (d) through line 9 on page 25.

Page 25, lines 10 through 13, strike out subsection (e) and insert in lieu thereof the following:

(d) Excluding appointments under subsection (c) of this section, the Secretary may place in grades GS–16, GS–17, and GS–18 not more than one hundred and thirteen individuals.

Page 25, line 14, strike out "(f)" and insert in lieu thereof "(e)".

Page 26, lines 1 through 5, strike out section 403.

Page 26, line 23, strike out "establish.".

Page 27, line 6, insert "(a)" after "Sec. 424."; beginning on line 6, strike out "prescribe, in accordance with chapter 5 of title 5, United States Code." and insert in lieu thereof "prescribe"; and after line 10 insert the following new subsection:

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 302, 303, and 304 of this Act.

Page 27, after line 10, insert the following new subsection:

(c) Each notice published by the Secretary of a proposed rule to administer and manage the functions vested in the Secretary or the Department shall be accompanied by a detailed statement by the official in the Department who is responsible for the issuance of the rule describing the economic impact of the proposed rule including, but not limited to, an analysis of:

(1) the cost impact of the rule on Federal, State, and local governments and school systems;

(2) the effect the rule will have on productivity, efficiency, and economy, including, but not limited to, the anticipated benefits;

(3) the effect the rule will have on improvement of education;

(4) the estimated cost of implementing, monitoring, and enforcing the rule by the agency issuing the rule;

(5) adverse economic impacts that the rule will cause that cannot be avoided; and

(6) alternatives to the rule that the responsible official had considered along with a finding as to why the alternatives were not proposed.

Page 28, beginning on line 3, strike out "establish.".

Page 28, beginning on line 11, strike out "related facilities," and insert in lieu thereof "related facilities (only to the extent operation of schools by the Department is authorized by this Act,".

Page 35, beginning on line 4, strike out "to the extent" and everything that follows through "of this Act" on line 5.

Page 42, line 25, strike out "(6)" and insert in lieu thereof "(7)". designate the succeeding subsections accordingly):

(c) Section 5108(a) of title 5, United States Code, is amended by striking out "3301" and inserting in lieu thereof "3365".

Page 42, line 25, strike out "(6)" and insert in lieu thereof "(7)".

Technical and conforming amendments:

Conform the table of contents to the text of the bill as amended.

Page 44, lines 7 through 14, strike out subsection (j).

SUMMARY AND PURPOSE

H.R. 13778 will create a Department of Education to be headed by a Secretary of Education who will be a member of the President's Cabinet. The department will help insure that education issues receives proper attention at the Federal level and will enable the Federal Government to coordinate its education related activities more effectively. Federal support for education has grown significantly during the past decade and the activities now being carried out on the Federal level are of such magnitude that they merit consolidation in a separate executive department.

In his message to Congress on education, President Carter said "a separate Cabinet level department will enable the Federal Government to be a true partner with State, local, and private education institutions in sustaining and improving the quality of our education system."

The Department will be organized according to the major functions it will carry out and contain offices dealing with elementary and secondary education, postsecondary education, research and improvement, and education of overseas dependents whose directors will report directly to the Secretray. There will also be an Office of Civil Rights and an Inspector General.

There will be transferred into the new department virtually all of the education programs and activities now in the Department of Health, Education, and Welfare along with vocational rehabilitation programs for the handicapped and those functions of the Office of Civil Rights and Inspector General that pertain to education. Also to be transferred are the education of overseas dependents of U.S. Government personnel from the Department of Defense; the college housing program from the Department of Housing and Urban Development and certain law enforcement education and intern programs from the Department of Justice. These programs now have expenditures of nearly $14½ billion dollars annually and a personnel complement of more than 15,000.

The bill establishes an Intergovernmental Advisory Council on Education, composed of 20 members, from State and local officers and representatives of parents, students, civil rights and other public interest groups. The Council will conduct studies and make recommendations to the President for improving the intergovernmental system for developing and carrying out educational policies.

The original proposal for the department contained a number of additional education and education-related programs, but the committee, after extensive hearings and deliberations, decided to limit the functions of the new department at its outset to those contained in the reported bill. Even so, the Department of Education will be a major unit of the executive branch in size, budget, and responsibility. The committee believes that its creation will be a significant step in attacking one of our pressing national problems.

The legislation contains an express provision prohibiting the Secretary or any officer of the Department from exercising any direction, supervision or control over local education programs.

COMMITTEE ACTION AND VOTE

On June 29, 1978, Chairman Jack Brooks and two cosponsors, Mr. Thompson and Mr. Blouin, introduced H.R. 13343, a bill to establish a Department of Education. The Subcommittee on Legislation and National Security amended H.R. 13343 in markup and a clean bill, H.R. 13778 was introduced to embody those amendments. H.R. 13778 was amended in full committee The bill as amended was reported to the House by a vote of 27 ayes to 15 nays, a quorum being present.

EXPLANATION OF AMENDMENTS

The first amendment deletes from the purposes section of the bill a list of duties for which the new Department was to be responsible, and inserts that the new Department is to administer Federal education laws.

The second amendment is a conforming amendment adding one additional principal officer at Level V of the Executive Schedule. This officer would head the Office of Special Education and Rehabilitative Services, a function that would be transferred to the new Department by another committee amendment.

The third amendment deletes from the duties assigned to the principal officers "supervising" public involvement in the affairs of the Department.

The fourth amendment establishes within the Department an office to administer to special education and rehabilitation services functions transferred to the Department. This amendment also provides that this particular organization at the Federal level should not be construed to require any particular organizational structure at the State level.

The fifth amendment deletes the Federal Interagency Committee on Education from the bill.

The sixth amendment deletes the transfer from the Department of HEW of the functions under the Alcohol and Drug Abuse Education Act.

The seventh amendment deletes the transfer from the Department of HEW of the functions under the International Education Act of 1966.

The eighth amendment transfers all functions of the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973 except for those functions relating to rehabilitative services for the disabled and for the blind and disabled and functions of the Commissioner under the Randolph-Sheppard Act. The amendment also transfers functions of the Secretary of Health, Education, and Welfare under two sections of the Rehabilitation Act of 1973.

The ninth amendment establishes a ceiling of 140 on the number of professional and technical employees that can be hired without regard to the civil service laws for the office to administer research, development, and dissemination functions. These are not new positions but are positions being transferred from the Department of HEW.

The 10th amendment deletes the authority of the Secretary to hire super grades outside the Civil Service super grade pool for the exclusive use of the Department.

The 11th amendment provides that the Secretary may place no more than 113 individuals in super grade positions in the Department of Education other than exempted personnel in the Office of Research and Improvement.

The 12th amendment delets the authority of the Secretary of Education to establish advisory committees.

The 13th amendment deletes the authority of the Secretary to establish organizational units or components within the Department.

The 14th amendment provides that the Secretary, in prescribing rules and regulations shall adhere to the requirements of section 431 of the General Education Provisions Act to the extent they were applicable prior to this act. This provision also applies to functions transferred under section 302, 303, and 304.

The 15th amendment provides that the Secretary shall, with each proposed rule, describe the economic impact of such rule. The analysis shall include the cost impact on all affected governments, the benefits of the rule, the effects on improvement of education, the cost of enforcement, adverse economic impacts caused by the rule and alternatives to the rule which were considered and why they were rejected in favor of the proposed rule.

The 16th amendment deletes the authority of the Secretary to establish regional or field offices.

The 17th amendment limits the authority of the Secretary to construct, improve, repair, operate and maintain schools and related facilities only to the overseas dependent schools being transferred from the Department of Defense.

The 18th amendment will make all sections of the General Education Provisions Act applicable to the Department except where inconsistent with this Act.

The 19th amendment places all of the super grades established in this bill in the Civil Service super grade pool.

The final amendment adds one principal officer to the ones who will be at Level V of the Executive Schedule to conform to the addition of the officer to handle special education and rehabilitation services.

HEARINGS

Five days of hearings were held by the Subcommittee on Legislation and National Security during which James T. McIntyre, Jr., Director of the Office of Management and Budget, Hale Champion, Under Secretary of the Department of Health, Education and Welfare, Carol Tucker Foreman, Assistant Secretary of Agriculture, and James A. Joseph, Under Secretary of the Interior, presented the views of the Administration. Other witnesses included Members of Congress, representatives of education associations, state and local governments, colleges and universities, labor unions, science associations, agricultural and food service associations, Indian tribes and the handicapped. Extensive communications on the bill were made a part of the record. For the most part, witnesses favored the creation of a Department of Education, though most disagreed with various programs being included in the Department. Some witnesses did not favor the creation of a Department of Education. Every effort was made to receive all points of view.

JUSTIFICATION FOR THE DEPARTMENT

In his Education Message to Congress on February 28, 1978, the President called for establishing a Department of Education that would—

> Let us focus on Federal educational policy, at the highest levels of our Government;
>
> Permit closer coordination of Federal education programs and other related activities;
>
> Reduce Federal regulations and reporting requirements and cut duplication;
>
> Assist school districts, teachers, and parents to make better use of local resources and ingenuity.

The committee concurs in these objectives and believes they can more successfully be achieved in a separate Department of Education.

As previously noted, the educational activities of the Federal Government have expanded greatly in recent years and those which will be carried out by the new department are significant indeed. It is only prudent that an organizational structure be provided that is equal to the task.

The present annual expenditures and personnel of the major programs being transferred into the Department of Education are as follows:

Program	Budget (millions)	Personnel
Education programs from HEW	[1] 12.9	4,100
Rehabilitation services from HEW	912	344
Special institutions from HEW	179	1
Activities of the Office for Civil Rights (Education) from HEW	56	1,500
Activities of the Office of the Secretary from HEW	10	250
Telecommunications demonstrations from HEW	1	0
Nursing student loans, health direct loans from HEW	(2)	45
Overseas dependent schools from DOD	350	9,200
LEAA student assistance from Justice	26	9
College housing from HUD	(3)	13
Total	[1] 14.434	15,462

[1] Billions.
[2] No request.
[3] No appropriation.

The above figures indicate the scope of the responsibilities encompassed by the new department. The expenditures and personnel will be larger than those of several existing executive departments.

Since the creation of the Department of Health, Education and Welfare in 1953 it has been the subject of criticism because of the difficulty of efficiently managing its numerous programs. There is not, however, a consensus on the basic causes of the problems in the department or what to do about them. Most seem to agree that HEW is too large and that the relationship of its programs to each other is more apparent that real. The creation of the new Department of Education will ease the administrative difficulties within HEW and the Department of Health and Welfare—though still a giant among executive agencies—will become more manageable.

STRUCTURE OF THE DEPARTMENT

The Department of Education, as set up in H.R. 13778, contains an organizational structure designed to give the President and the Secretary management flexibility. The structure allows flexibility by allowing personnel and functional changes to be made as they are needed rather than the Department being bound by the rigid structure of Assistant Secretaries normally found in other departments of the executive branch.

The Department will have a Secretary, who will be a member of the Cabinet; an Under Secretary, who will perform the duties of the Secretary in his absence and such other duties as the Secretary may assign; six principal officers at Level IV of the Executive Schedule and seven principal officers at Level V of the Executive Schedule. These 13 principal officers will head offices or perform functions within the Department. With the exception of the principal officer to be in charge of the Office of Civil Rights, no principal officer is designated at any particular level or as performing any particular functions. The President shall designate the level of the Executive Schedule applicable to and the particular functions to be performed by each individual nominated to be a principal officer. The Secretary of Education may later reallocate the functions of the Department among his principal officers and conform their titles accordingly.

The committee deleted from H.R. 13778 the section establishing a Federal Interagency Committee on Education. This deletion was not made because the committee thought such an interagency committee was unnecessary but rather it was felt that such a body could be established without explicit authority in the bill.

Transfers of Programs From the Department of Health, Education, and Welfare

Education

The traditional educational functions of the Department of Health, Education, and Welfare are administered by its Office of Education and will be carried out by the new Department of Education. These include a variety of grant programs to State education agencies and local school districts; impact aid in areas affected by Federal programs; financial and technical assistance to school districts to meet special needs incident to the elimination of racial and other forms of discrimination and inequality; and assistance for construction of library facilities, among others. The department also administers support and assistance programs directed to higher education. It also provides grants to improve instruction in crucial academic subjects and a fund for the improvement of post secondary education to encourage a broad range of improvements and innovations on that level.

Also transferred will be the National Institute of Education in HEW which provides leadership in the conduct and support of scientific inquiry into the educational process.

Vocational rehabilitation

A committee amendment to the bill transfers vocational rehabilitation and related programs from HEW to the Department of Education. These programs include the basic VR States grant program, and the innovation and expansion, research, training and Randolph-Sheppard programs administered by the Rehabilitation Services Administration. The Office for Handicapped Individuals is also transferred under these provisions. Specifically excluded from transfer, however, are programs authorized under the Social Security Act that support rehabilitation services for blind and disabled persons.

The bill creates an Office of Special Education and Rehabilitation Services in the Department and requires that the head of this office report directly to the Secretary and be one of the Department's principal officers.

The committee's intention is to bring together in one major subcabinet entity, headed by a Presidential appointee, Federal programs designed to assist handicapped individuals. This is accomplished by establishing an office with responsibility for the education for all handicapped children and vocational rehabilitation and related programs. This transfer will provide for coordination of these programs and will also establish a high-level focal point within the Federal Government to represent the needs of the handicapped and to formulate a coherent national policy on the handicapped.

While the committee believes this arrangement will provide benefits to the Federal Government, it does not believe it should be imposed on the States. As a consequence, section 209(c) makes it clear that nothing in the section shall be construed to require any particular organizational arrangement or structure of the vocational rehabilitation programs at the State level.

Placing vocational rehabilitation under the same Department which will handle the two other major Federal programs serving the handicapped—education for all handicapped children (Public Law 94-142) and vocational education of handicapped persons—will enhance the opportunity for cooperative arrangements for the delivery of services at the State and local level.

Education agencies are concerned with the overall life adjustment of handicapped young persons within their communities, including their ability to become employed. Vocational rehabilitation agencies are concerned with enabling handicapped individuals—particularly the severely disabled—to prepare for and engage in employment. These concerns are clearly compatible and every effort should be made to coordinate existing services.

Student loans

Centralizing of health professions loans, guaranteed loans, nursing loans, national direct student loans, and law enforcement education programs loans in the new Department should provide the Secretary the authority for: (1) simplifying loan eligibility procedures; (2) reducing paperwork burdens on students and their families, as well as on college and university administrators; (3) improving substantially Federal collection, debt deferral and forgiveness activities by reducing multiple billing agencies; and (4) reassessing the present mix of allocation formulas and institutional application processes to provide improved integrity, clarity and equity for all need-based student assistance. With the addition of the nursing grant program to the new Department, all need-tested student financial assistance programs will reside in a single agency.

Telecommunications

Included in the transfers from HEW will be the nonbroadcasting telecommunications demonstration program. This program was created in 1976 to promote the development of nonbroadcasting telecommunications facilities. Its purpose is to encourage innovation in the use and adaption of a variety of technologies for the transmission, distribution and delivery of health, education, or public or social service information.

The Department of Education is expected to play a lead role in developing and adapting newer telecommunications systems applicable to education and in coordinating efforts of other Federal agencies which may also be engaged in developing technologies that relate to education.

Transfer of the telecommunications demonstration program will assist in broadening its educational and informational delivery systems beyond those of formal schools and colleges.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

Overseas dependents' schools

The Department of Defense Overseas Dependents' Schools were created administratively in 1946 to provide elementary and secondary education for children of military personnel stationed outside the continental United States and Puerto Rico. There are currently 267 such schools in operation with 135,000 students. The schools are most heavily concentrated in the European area, which extends as far as the Persian Gulf. About 77 percent of the students are located in this area, with 20 percent in the Pacific, and only 3 percent in the Atlantic.

The system has 9,200 employees, and will spend about $350 million in fiscal year 1979.

The schools are only tangentially related to the Defense Department's mission, and they must compete within a tight defense budget with weapons, logistical systems, and other items central to the Department's mission. The transfer of the schools to the Department of Education will offer opportunities for increasing the quality of education for their students. It would also offer opportunities for access and improvements in education for handicapped children, gifted and talented students, and those who may benefit from compensatory education and for improvement of vocational education in the overseas schools.

The committee recognizes that these schools are dependent on a network of support services provided by the Department of Defense. The committee believes that the Secretary can negotiate appropriate interdepartmental support agreements and has provided the Secretary of Education 3 years in which to phase in this transfer. The system of interservice support agreements should continue during this transition.

The Department of Defense also operates 19 schools in Puerto Rico and the continental United States which are funded through USOE's impact aid programs. These schools will educate about 34,000 students in fiscal year 1979 at a cost of $58 million. The authority for these schools will transfer to the Department of Education with the impact aid programs. The committee believes that the Secretary of Education should be given sufficient flexibility to administer these schools in an effective and efficient manner.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Two programs administered by the Law Enforcement Assistance Administration (LEAA) will be transferred to the Department of Education. The Law Enforcement Education Program provides for loans and grants to professional criminal justice personnel through higher education institutions. An accredited institution submits an annual application to the LEAA, which then awards project grants to the institutions, 1,025 in fiscal year 1977. The institutions then make grants and loans to eligible students. Grants are made to in-service employees of a public law enforcement agency, usually police officers who take courses on a part-time basis. The other program, the Law Enforcement Internship Program is a work-study summer experience for undergraduates to gain practical experience in criminal justice.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

College housing program

Title IV of the Housing Act of 1950 authorizes loans to colleges and universities (and to certain other eligible institutions) at 3 percent interest for the construction or acquisition of housing and related facilities for students and faculty. The college housing program has offered two types of assistance: direct Federal loans and debt service grants to support private market loans. The grant portion of the program was terminated in 1974 when Congress rescinded unused debt service grant funds. At present, instead of awarding grants, HUD is conducting a limited direct loan program using the repayments of previous loans to provide annual funds. The HUD budget submission for fiscal year 1979 recommends the transfer of the assets and liabilities of the college housing loan fund to a revolving fund for program termination in 1979 and no further appropriations have been requested.

Discussion

Office for civil rights

The bill specifies that an Office for Civil Rights shall be established in the new Department and it shall be directed by one of the principal officers of the Department. The Office shall continue and strengthen the compliance and enforcement functions relating to education which were delegated to the Office for Civil Rights in the Department of Health, Education and Welfare by the Secretary of HEW during its tenure in that Department.

The committee recognizes that the Office for Civil Rights has a critical function which enables the Department to fulfill one of its major purposes: to continue and strengthen the Federal commitment to ensuring equal access to equal educational opportunity for all individuals. These activities include implementation of enforcement programs pursuant to Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race and national origin); Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of sex); and section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of handicap).

Progress in civil rights enforcement since the passage of the Civil Rights Act of 1964 has led to substantial improvements in the educational opportunities of children previously subject to discrimination, but discriminatory practices continue in many educational activities and institutions and much remains to be done.

James T. McIntyre, Director of the Office of Management and Budget, expressed during the committee's hearings the administration's "commitment to enforce vigorously the civil rights laws and regulations, which are the centerpiece of the Federal role in education." Recognition of OCR's importance is reflected in the elevation in stature of the Director to an executive level IV. Consistent with the great responsibility vested in OCR and the increased status of its Director, the committee concluded that certain management and structural provisions must be incorporated in the enabling legislation which establishes this Department.

The committee took careful note of the testimony presented by a range of Spanish speaking, civil rights, child advocacy and handicapped groups as to the problems which OCR has faced and, absent certain protective provisions, would be likely to face again. The committee concluded that the following provisions are necessary to secure the operational integrity of OCR which is fundamental to the fulfillment of its Congressionally mandated responsibilities:

> The Director of OCR is to be assigned the authority by the Secretary of Education for enforcing all civil rights laws in all programs administered by the Department.

The Director of OCR is required to prepare and transmit an independent report directly to the Secretary and the Congress summarizing OCR's compliance and enforcement activities of the previous year and identifying significant civil rights or noncompliance problems. The Director is expected to provide the report to the Secretary in advance of the due date for submission to Congress. The Secretary may append comments separately to the report, but may not alter the report as drafted by the Director. Because reliable and current data are essential to effective enforcement, the Director of the OCR shall have the authority to collect or coordinate collection of data necessary to ensure compliance with civil rights laws.

It is understood that OCR must consistently review its data requests in the interest of limiting unnecessary paperwork. Consequently, OCR should coordinate its information requests with other agencies in and out of the Department to make sure it is not asking for data that already exist or to see if modifications of non-OCR data collection systems could prove a more effective and less burdensome means of meeting the necessary enforcement data requirements.

The committee recognizes that OCR is fundamentally a law enforcement agency and as such must have the authority to select, appoint and employ such officers and employees, including adequate staff attorneys and consultants, as may be necessary to carry out functions, powers and duties of the office. The bill gives the Director of OCR the authority to obtain services in conformance with 5 U.S.C. 3109.

In addition, in the event that a budget request for the Office of Civil Rights is reduced, before submission to Congress, to an extent which the Director deems seriously detrimental to the adequate performance of its functions, the Director is directed to inform Congress without delay.

In addition to the preceding provisions which the committee has adopted, the committee further intends that OCR should have the capacity for analysis as well as the ability to acquire short-term expertise to ensure continued efficiency of operation. The Director is therefore authorized to enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions.

It is the committee's intention that nothing in H.R. 13778 shall be considered to interfere with OCR's ability to enforce the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law, or to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to ensure the complete and uniform enforcement of these acts among the recipients of the Department's programs. Indeed, the provisions of section 208 of this bill will strengthen OCR organizationally and ensure that it conducts its activities in an efficient manner.

Indian tribes have a unique relationship to civil rights laws, and members of those tribes enjoy a special status. The special government-to-government relationship between the Federal Government and the tribes exempts Indians and Indian tribes from certain civil rights restrictions. Indian preference in personnel actions, for example, is based on this special relationship. At the same time, Indians as citizens are entitled to the protection of the civil rights statutes. This special dual status requires a special expertise and the Secretary may want to consider establishing a separate division for Indian education in the new Department's Office for Civil Rights.

The committee expects the Office of Management and Budget to exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

Intergovernmental Advisory Council on Education

The bill establishes an Intergovernmental Advisory Council on Education to assist the Department of Education with developing and carrying out educational policies within the intergovernmental system. This advisory committee is designed to increase public participation in the affairs of the Department. The Council will be composed of 20 members appointed by the President from citizens with backgrounds as state and local officials, parents, students, civil rights representatives, and educators from the preschool through post-secondary levels.

In making selections of individuals for this council, it is the committee's intent that the President select individuals other than professional governmental representatives or lobbyists. To the greatest extent practicable, the members of the Council should be active participants in the field of education. By excluding professional governmental representatives and lobbyists, it is hoped that this council will be composed of individuals most closely related to education either as participants, governmental officials, or persons with vital interests in seeing that Federal laws relating to education are adequately enforced.

The Council should provide benefits to the Department by improving coordination between the education policies of the Federal Government and the States and local governments. This has been an area of much confusion and waste in the past with conflicting guidelines and requirements being promulgated at the Federal and State levels. This body should work diligently to eliminate such problems by providing effective coordination at all three levels. Effective intergovernmental coordination provided by this Council should be one of the very real benefits provided by the organization of the Department of Education.

Federal control

One of the most persistent fears expressed about setting up a separate Department of Education during hearings by the Legislation and National Security Subcommittee was that creation of such a department would lead to Federal control of education. H.R. 13778, in section 103, contains a clear prohibition on Federal interference in matters which have been traditionally left to be decided at the State, local, or institutional level. These locally decided matters include the curriculum, program of instruction, administration, personnel selection, selection of library resources, textbooks and other educational materials.

The transfer of the operation of the Department of Defense Overseas Dependent Schools program into the Department of Education is not to be taken as new authority to extend Federal control to local education. The Overseas Dependent School System has always been federally controlled and the transfer of this system into the Department of Education does not change that. H.R. 13778 only transfers existing operations of Overseas Dependent Schools from the Department of Defense to the Department of Education.

Rules

The bill authorizes the Secretary of Education to prescribe such rules and regulations as he may deem necessary to administer the functions of the department. The committee determined, however, that the rules should be in accordance with the Administrative Procedures Act (chapter 5 of title 5, U.S. Code) and that section 431 of the General Education Provisions Act, 20 U.S.C. 1232, (which sets forth procedures to be followed in issuing rules under that act) will apply to the extent applicable immediately prior to the effective date of this legislation.

H.R. 13778 also requires a detailed statement describing the economic impact of a proposed rule including its cost impact on governments, its effect on productivity, its effect on improvement of education, and its cost of implementation among other requirements.

The committee does not intend, however, that this provision apply to the initial regulations to be issued upon the creation of the department. The impact statements requirement is applicable to subsequent regulations.

INFLATIONARY IMPACT

In compliance with subdivision (A) of clause 2(1)(4) of House Rule XI, it is the opnion of this committee that the provisions of this bill will have no inflationary impact on prices and costs in the operation of the national economy.

OVERSIGHT FINDINGS

The committee has maintained continuous oversight of the agencies affected by this legislation, but has made no detailed findings and recommendations other than those contained elsewhere in this report.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate prepared by the Congressional Budget Office is contained in the following letter from its Director:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., August 18, 1978.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 13778, the Department of Education Organization Act.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ROBERT A. LEVINE
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

AUGUST 18, 1978.

1. Bill number: H.R. 13778.
2. Bill Title: Department of Education Organization Act.
3. Bill Status: Ordered reported by the House Committee on Government Operations on August 15, 1978.
4. Bill purpose: To establish a Department of Education.
5. Cost estimate:

[Fiscal years; in thousands of dollars]

	1979	1980	1981	1982	1983
Function 500 costs		5,203	7,106	9,790	9,147
Function 920 costs (Federal pay raises)			295	421	640
Total cost		5,203	7,385	10,211	9,787

The costs of this bill fall within budget functions 500 and 920.

6. Basis for estimate: The costs of this bill include the one time costs associated with the establishment of the new Department of Education as well as the salaries for additional employees authorized by this legislation. It is not know at this time whether these costs would be absorbed by existing funds or whether they require new funds. For the purpose of estimating costs, it is assumed that the legislation will become effective at the beginning of fiscal year 1980. According to the President's reorganization project, the reorganization will take place over three years.

H.R. 13778 authorizes the addition of 15 executive level positions and 43 supergrade positions (GS–16 to 18) to the current total, as well as an unspecified number of overhead and support staff. The President's reorganization project estimates 100 positions for overhead and support staff. Given the 3 year startup timetable, CBO assumes 50 percent of the positions will be filled the first year, 75 percent the second, and 100 percent the third. CBO also assumes the 15 transitional employees provided by the legislation will work for three years.

Total staff costs for fiscal years 1980–83 were calculated by multiplying the number of positions each year by the cost per position estimated by the President's reorganization project. Cost per position was adjusted for anticipated Federal payraises.

Costs for the Intergovernmental Advisory Council on Education are based on two meetings per year, and include compensation, travel, and expenses for each of the 20 members.

The one time general costs for the reorganization, which include moving costs, are estimated to be $0.5 million in the first year and $0.25 million in the second and third years.

7. Estimate comparison: None.

8. Previous CBO estimate: On July 25, 1978, CBO completed a cost estimate on S. 991, the Department of Education Organization Act of 1978. The Senate bill cost estimate included a larger number of supergrade positions and the transfer of the child nutrition and Indian programs to the new Department.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by:

C. G. Nuckols,
Deputy Assistant Director for Budget Analysis.

Committee Estimate of Cost

The committee agrees with the estimate contained in the submission of the Congressional Budget Office above and presents that estimate as the committee's pursuant to the requirements of clause 7 of House rule XIII.

Section-by-Section Analysis

SECTION 1

Section 1 entitles the Act the "Department of Education Organization Act" and contains the Table of Contents of the Act.

SECTION 2

Section 2 contains definitions of the terms "Department," "Secretary," "function," and "State."

Title I—Findings and Purpose

SECTION 101—FINDINGS

Section 101 sets forth the findings of the Congress that: (1) education is fundamental to individual development and National growth; (2) the existing structure of the Executive branch does not recognize adequately the importance of education; (3) the primary responsibility for education is that of State and local governments, public and nonpublic institutions, families, and communities; (4) there is a need to insure equal educational opportunity; (5) there is a need to improve the quality of education; and (6) the proliferation of Federal programs has created management problems at the Federal, State, local an institutional levels.

SECTION 102—PURPOSE

Section 102 states that the establishment of a Department of Education is in the public interest, will help ensure that education issues receive proper attention at the Federal level and will help the Federal Government coordinate its education activities more effectively. The purpose of the Department is to administer Federal education laws.

SECTION 103—PROHIBITION AGANIST FEDERAL CONTROL OF EDUCATION

Section 103 provides that no provision of law administered by the Secretary or any other Federal officer shall be construed to authorize the Secretary or officer to exercise any direction, supervision or control over curriculum, program of instruction, administration or personnel of any educational institution, school or school system, over any accrediting agency or association or over the selection of library resources, textbooks or other instructional materials by any educational institutions or school system except to the extent explicitly authorized by statute.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

SECTION 201—ESTABLISHMENT

Section 201 establishes the Department of Education in the executive branch, to be headed and administered by a Secretary appointed by the President and confirmed by the Senate. The section also provides for an Under Secretary, appointed by the President and confirmed by the Senate.

SECTION 202—PRINCIPAL OFFICERS

Section 202 establishes 13 principal officers of the Department, 6 at level IV and 7 at level V of the executive schedule. All are appointed by the President, confirmed by the Senate and are to perform such functions as the Secretary may prescribe, including those involving: (1) intergovernmental relations; (2) congressional relations; (3) public information; (4) management and budgeting; (5) planning, evaluation and policy development; and (6) assuring public involvement in departmental programs. In nominating a principal officer, the President shall indicate the title, pay level functions of the officer. The Secretary may reallocate functions among the principal officers and rename the title of the office held by those officers, unless otherwise prohibited by this act.

SECTION 203—OFFICE OF INSPECTOR GENERAL

Section 203 creates the office of Inspector General, whose director will be one of the principal officers created by section 202. The Inspector General will possess all authority relating to programs transferred from the Department of Health, Education and Welfare that is now vested in the Inspector General of HEW and will also have such authority with respect to all other functions of the Department.

SECTION 204—GENERAL COUNSEL

Section 204 creates the office of General Counsel, who will be a principal officer.

SECTION 205—RESEARCH AND IMPROVEMENT FUNCTIONS

Section 205 creates an office to administer functions relating to research, development, and dissemination of improved education and training practices. Its director shall report directly to the Secretary and be one of the principal officers.

SECTION 206—FUNCTIONS RELATING TO ELEMENTARY AND SECONDARY EDUCATION

Section 206 creates an office to administer functions relating to elementary and secondary education. The director of this office will report directly to the Secretary and be a principal officer.

SECTION 207—FUNCTIONS RELATING TO POST-SECONDARY EDUCATION

Section 207 creates an office to administer functions relating to post-secondary education. The director of the office will report directly to the Secretary and be a principal officer.

SECTION 208—OFFICE OF CIVIL RIGHTS

Section 208(a) establishes an Office of Civil Rights whose Director shall report directly to the Secretary and be a principal officer at Level IV of the Executive Schedule.

Subsection (b) provides that all civil rights enforcement functions transferred to the Department by section 301(a)(2)(A) will be delegated to the Director of this office.

Subsection (c) authorizes the Director to make annual reports to Congress and the Secretary summarizing the compliance and enforcement activities and identifying significant problems on which adequate progress has not been made.

Subsection (d) requires that the annual report be sent to the Secretary and the Congress by the Director without further clearance or approval. The Director shall, insofar as feasible, provide the Secretary with copies of the annual report sufficiently in advance of its submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report when submitted to Congress.

Subsection (e) authorizes the Director, in addition to his other authorities, to: (1) collect and coordinate collection of data related to compliance with civil rights laws necessary ot insure compliance with those laws within its jurisdiction; (2) inform Congress without delay, in the event a budget request is reduced, before its submission to Congress, to an extent the Director deems seriously detrimental to the adequate performance of his functions; (3) select, appoint and employ officers and employees, including staff attorneys, necessary to carry out the functions of the office, subject to civil service and other specified legal requirements; and (4) obtain services of experts and consultants at daily rates not exceeding that of a GS-18 of the General Schedule.

SECTION 209—FUNCTIONS RELATING TO SPECIAL EDUCATION AND REHABILITATION SERVICES

Section 209(a) create an office to administer special education and rehabilitation services whose director shall report directly to the Secretary and be a principal officer.

Subsection (b) provides that all functions transferred to the Secretary by section 301(a)(2)(J) and 301(a)(3) of this act shall be delegated to the director of this office.

Subsection (c) provides that nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

SECTION 210—FUNCTIONS RELATING TO EDUCATION OF OVERSEAS DEPENDENTS

Section 210 creates an office to administer functions relating to the education of overseas dependents of Defense Department personnel.

The director of this office will report directly to the Secretary and be a principal officer. All functions transferred to the Department by section 302 will be delegated to the director of this office.

SECTION 211—INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Section 211(a) creates an Intergovernmental Advisory Council on Education to make recommendations to the President and Secretary for improving the intergovernmental system for educational policy development and administration.

Subsection (b) provides that the Council shall: (1) provide a discussion forum for representatives of educational interests; (2) study the allocation of educational and related responsibilities among the various levels of government; (3) recommend improvements in the administration and operation of Federal education programs; (4) promote better intergovernmental relations; (5) assess the capacity of the educational system to deliver equitable and effective education; (6) submit a triennial report to the President and the Secretary reviewing the impact of Federal education policies on State and local governments and on educational institutions; and (7) assist the Secretary in conducting conferences and other activities to assess the contribution of each level of government to education.

Subsection (c) provides for a Council membership of 20, including four individuals from each of the following categories: elected State and local officials, citizens (including parents and students); representatives of preschool, elementary and secondary education; representatives of post-secondary education; and representatives of civil rights and other public interest groups. The terms of members of the Council are to be 4 years, and the Chairperson of the Counicil will be designated by the President.

Subsection (d) directs the Secretary to provide staff and other support for the Council.

Subsection (e) provides that the Council will exist until terminated by act of Congress.

TITLE III—TRANSFERS OF FUNCTIONS

SECTION 301—TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Section 301(a) contains a long list of transfers from the Department of Health, Education and Welfare to the Secretary of Education. First, the functions of the Education Division and the Assistant Secretary of Education are transferred. Second, the functions principally involving education which were vested in the Secretary of Health, Education and Welfare are transferred. These include the functions:

(A) of the Office for Civil Rights relating to education;

(B) under the General Education Provisions Act;

(C) under section 808 of the Elementary and Secondary Education Act of 1965;

(D) under the Emergency School Aid Act;

(E) under the Higher Education Act of 1965;

(F) under the Emergency Insured Student Loan Act of 1969;

(G) under the Act of August 30, 1890;

(H) under the Environmental Education Act;

(I) under the National Defense Education Act of 1958;

(J) under the Education of the Handicapped Act;

(K) under Part B of Title V of the Economic Opportunity Act of 1964;

(L) under subparts I and II of part C of title VII and part B of title III of the Public Health Service Act;

(M) under the National Commission on Libraries and Information Science Act;

(N) under the Vocational Education Act of 1963;

(O) relating to Gallaudet College, Howard University, the American Printing House for the Blind and the National Technical Institute for the Deaf;

(P) under the Model Secondary School for the Deaf Act;

(Q) relating to the telecommunications demonstration program under Subpart A of Part IV and title III of the Communications Act of 1934; and

(R) under section 203(K) of the Federal Property and Administrative Services Act of 1949. (It is the intention of the Committee that the Office of Management and Budget should make the determination as to which functions of the Secretary of Health, Education and Welfare relate more closely to health and which to education for the purposes of the transfer to the Secretary of Education under Section 203(K) of the Federal Property and Administrative Services Act of 1949.)

Third, the functions administered through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973 and the Randolph-Sheppard Act (act of June 20, 1936) except for the functions of the Secretary of Health, Education and Welfare under section 222 and 1615 of the Social Security Act relating to services for disabled and blind individuals are transferred. Also transferred are the function of the Secretary of Health, Education and Welfare under sections 405(a)(5) and 405(c) of the Rehabilitation Act of 1973. Fourth, the advisory committees created by statute in the Department of Health, Education, and Welfare giving advice principally concerning education are transferred but these committees may be combined or terminated by the Secretary of Education. Fifth, the Institute of Museum Services is transferred. Finally, the Advisory Council on Education Statistics is transferred.

Subsection (b) transfers to the Inspector General of the Department all functions now vested in the Inspector General of the Department of Health, Education and Welfare that relate to education programs in HEW.

SECTION 230—TRANSFERS FROM THE DEPARTMENT OF DEFENSE

Subsection (a) transfers from the Defense Department functions relating to the operation of schools for overseas dependents of Defense Department personnel.

Subsection (b) authorizes the Secretary to operate such a program.

Subsection (c) provides that the authorities available to the Secretary of Defense and the service secretaries under the Defense Department Overseas Teachers Pay and Personnel Practices Act are to be available to the Secretary for the operation of this program.

Subsection (d) authorizes the transfer of this program over a 3-year period and requires the transmission to Congress of plans for the transfer within one year after the act takes effect.

SECTION 303—TRANSFERS FROM THE DEPARTMENT OF JUSTICE

Section 303 transfers from the Justice Department two student loan and grant programs established under the Omnibus Crime Control and Safe Streets Act of 1968: the law enforcement education program and the law enforcement intern program.

SECTION 304—TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Section 304 transfers from the Department of Housing and Urban Development the college housing loan program under title IV of the Housing Act of 1950.

SECTION 305—EFFECT OF TRANSFERS

Section 305 provides that the transfer of a function or program from an officer or agency includes any aspects of such function or program vested in a subordinate of such officer or a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

SECTION 401—OFFICERS AND EMPLOYEES

Section 401(a) permits the Secretary to appoint and fix the salary for the Department's employees in accordance with the civil service laws.

Subsection (b) provides for the transfer to the Department of supergrade positions now assigned and used in connection with the functions transferred to the Department.

Subsection (c) provides certain excepted appointment authorities to the Secretary. The first allows him to appoint without regard to the civil service laws up to 140 "technical and professional" employees within the Office of Research and Improvement created by section 205 of the act. This type of authority now exists in the Education Division and will permit the Secretary to employ such technical experts as researchers and statisticians who are necessary to the mission of programs and functions transferred to this office.

The second type of authority permits the Secretary to employ at any one time more than 15 transitional employees during the first 3 years after the effective date of the act. The Secretary may use this authority to hire such individuals as professional managers, researchers and analysts to get the department operational.

Subsection (d) provides authority to the Secretary to appoint up to a maximum of 113 supergrade positions. This is an increase in authoring for 43 supergrade positions. The costs and positions for these additional supergrades should be absorbed from current dollar appropriation and position authorization levels. The bill also converts 21 statutory supergrades to supergrade positions within the pool of supergrades administered by the Civil Service Commission. Authority for these 64 supergrade positions should be made available by the Civil Service Commission to the Secretary of Education. Once a supergrade position is vacated it should then revert to the general supergrade pool for redistribution.

Subsection (e) provides that personnel performing functions relating to schools for overseas dependents of Defense Department personnel shall be treated, for purposes of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

SECTION 402—EXPERTS AND CONSULTANTS

Section 402 authorizes the Secretary to employ the intermittent services of experts and consultants under 5 U.S.C. 3109.

PART B—GENERAL PROVISIONS

SECTION 421—GENERAL AUTHORITY

Secion 421 provides that with regard to any function to be transferred to the Department of Education, the Secretary may utilize any authority in administering such function which the predecessor official or agency had.

SECTION 422—DELEGATION

Section 422 permits the Secretary, unless otherwise provided in the act, to delegate any functions to officers and employees of the Department, and to authorize successive redelegations thereof.

SECTION 423—REORGANIZATION

Section 423 permits the Secretary to change the structure of the Department so long as the Secretary does not abolish organizational units established by the act or transfer functions vested by the act in a specific organizational unit.

SECTION 424—RULES

Section 424(a) grants to the Secretary the authority to prescribe necessary rules and regulations.

Subsection (b) requires the Secretary to promulgate rules in accordance with the Administrative Procedures Act (ch. 5 title 5, U.S. Code). In addition, the provisions of section 431 of the General Education Provisions Act (GEPA) shall apply to the promulgation of rules and regulations relating to certain transferred functions. It shall apply to the same extent that it is applicable immediately prior to the effective date of the act, that is, to the extent that GEPA applies to programs previously administered by the Education Division of HEW and the Assistant Secretary of Education. Thus, section 431 will not apply to the programs in the department transferred by section 301 that were not preivously subject to GEPA, for eaxmple, most programs administered by the Office for Civil Rights in HEW (except for title

IX, which is subject to GEPA). Section 431 would apply to programs transferred to the department by sections 302, 303 and 304 of the act.

Subsection (c) requires that an economic impact statement accompany each proposed rule of the Department. This statement must contain the cost impact of the rule, its effect on productivity, efficiency and economy, its effect on the improvement of eduaction, the estimated cost of implementing the rule, the unavoidable adverse economic impacts of the rule and alternatives to the rule.

SECTION 425—CONTRACTS

Section 425(a) authorizes the Secretary to enter into and perform contracts and other agreements with public agencies and private organizations and persons as may be necessary or appropriate to carry out the functions of the Department.

Subsection (b) limits the Secretary's contract authority to the limits of funds appropriated by law.

SECTION 426—FIELD OFFICES

Section 426 gives the Secretary the opwer to maintain, alter, and discontinue regional and other field offices.

SECTION 427—ACQUISITION AND MAINTENANCE OF PROPERTY

Section 427(a) permits the Secretary to construct or acquire schools, (to the extent operation of schools by the Department is authorized by this act) laboratories and related facilities, and to contract for eating facilities and other facilities necessary for the health and welfare of departmental employees.

Subsection (b) gives the Secretary the same authority to provide day care centers for the children of departmental employees that is now available to the Secretary of Health, Education and Welfare. Appropriated funds are not available to fund such facilities.

Subsection (c) limits the authority conferred by subsection (a) to facilities of a special purpose nature that are not readily reassignable to other Federal activities and not otherwise available from the General Services Administration.

SECTION 428—FACILITIES AT REMOTE LOCATIONS

Section 428(a) authorizes the Secretary to provide and maintain, for employees at remote locations: (1) medical services and supplies; (2) food; (3) dining facilities; (4) audio-visual and other recreational equipment; (5) reimbursement for supplies provided by employees to victims of disasters; (6) living and working quarters; and (7) transportation for dependents of Departmental employees to educational facilities.

Subsection (b) provides that the furnishing of medical treatment, food and dining facilities shall be at prices reflecting reasonable value as determined by the Secretary.

Subsection (c) provides that receipts under this section may be credited to the appropriation that bears all or part of such work or services.

SECTION 429—USE OF FACILITIES

Section 429(a) permits the Secretary to utilize, with their consent, the facilities of any Federal, State or local agency, or any foreign government.

Subsection (b) permits the Secretary to rent out departmental real property and to require lessees to recondition and maintain such property.

Subsection (c) provides that receipts under this section may be credited to the appropriation that bears all or a part of the cost of such equipment or facilities.

SECTION 430—COPYRIGHTS AND PATENTS

Section 430 authorizes the Secretary to acquire necessary copyrights, patents, applications for patents, and releases for past infringement (before suit is brought).

SECTION 431—GIFTS AND BEQUESTS

Section 431 authorizes the Secretary to accept, hold, administer and utilize gifts and bequests of real and personal property in order to facilitate the work of the Department. Money and proceeds of sales of other property must be deposited in the Treasury for disbursement on the order of the Secretary. For tax purposes, gifts and bequests will be deemed to have been made to the United States.

SECTION 432—WORKING CAPITAL FUND

Section 432 authorizes the establishment of a working capital fund without fiscal year limitation for the necessary expenses involved in the operation of common administrative services.

SECTION 433—FUNDS TRANSFER

Section 433 authorizes the Secretary, if so authorized in an appropriation act, to transfer up to 10 percent in a given fiscal year, funds in an account from one appropriation to another within the Department. No such transfer may increase any appropriation above the level authorized to be appropriated therefor.

SECTION 434—SEAL OF DEPARTMENT

Section 434 provides for establishment of an official seal for the Department which shall be judicially noticed.

SECTION 435—ANNUAL REPORT

Section 435 requires a single, comprehensive annual report by the Secretary to the President for transmission to the Congress on the activities of the Department in each fiscal year. The report is to include a statement of goals, priorities and plans for the Department as well as an assessment of the progress made toward attainment of such objectives and toward efficient and effective management of the Department and coordination of its functions.

SECTION 436—AUTHORIZATION OF APPROPRIATIONS

Section 436 authorizes appropriations to carry out the purposes of the act and any additional functions that may be vested in the Department. These funds are to remain available without fiscal year limitation, but are subject to any limitations on appropriations applicable to any program transferred to the Department or the Secretary.

SECTION 437—RELATIONSHIP TO GENERAL EDUCATION PROVISIONS

Section 437 provides that the GEPA shall apply to functions transferred by this act, except where inconsistent with the provisions of this act. Subject to the exception, this provision makes the powers and restrictions of GEPA, including, for example, those relating to rulemaking, creation and termination of advisory committees, and carry over funding, applicable to the program of the department.

SECTION 438—TECHNICAL ADVICE

Section 438 authorizes the Secretary to provide technical advice to participants or potential participants in departmental programs including States desiring to develop comprehensive plans applicable to two or more programs of the Department.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SECTION 501—TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

Section 501(a) provides for the transfer to the Department of the personnel, assets and funds relating to the functions transferred by the act. Unexpended funds so transferred are to be used only for the purposes for which originally authorized and appropriated.

Subsection (b) provides that statutory positions created by statute or reorganization plan to carry out the functions transferred by the act, and the individuals holding those positions, are to be subject to section 503.

SECTION 502—EFFECT ON PERSONNEL

Section 502(a) provides that except as otherwise provided in the act, no employees (except special Government employees) shall be separated or reduced in grade or compensation because of their transfer under this act for one year after such transfer or after the effective date of the act, whichever occurs later.

Subsection (b) provides that any person holding an executive schedule position when the act takes effect who is appointed to a comparable position in the Department shall retain at least his or her prior rate of pay so long as he or she serves in the new position.

SECTION 503—AGENCY TERMINATIONS

Section 503 provides that, except as otherwise provided in the act, an agency or component terminates if all of its functions are removed by the act. When an agency or component terminates, all positions in it that were expressly authorized by law or paid under the executive schedule also terminate.

SECTION 504—INCIDENTAL TRANSFERS

Section 504 authorizes the Director of the Office of Management and Budget to make necessary determinations about the transfers of functions under the act, to make necessary additional dispositions of personnel, assets and funds, to provide for terminating the affairs of agencies or components terminated under the act, and to take any other steps necessary to effectuate the act. The committee wishes to emphasize that this power to make incidental transfers is limited in nature and is not a broad reorganization authority.

SECTION 505—SAVINGS PROVISIONS

Section 505(a) provides for the continuation of all effective orders, determinations, rules, regulations, permits, contracts, certificates, licenses and privileges made before the act takes effect despite the transfer of such functions to the Department.

Subsections (b), (c), (d) and (e) protects the status of any proceedings pending when the act takes effect before any agency or component whose functions are transferred by the act. Such proceedings may be discontinued or modified to the same extent permitted had the act not been enacted. The Secretary may promulgate regulations to assure orderly transfer of such proceedings to the Department. The act shall not affect suits commenced prior to the effective date of the act, except to substitute or add the appropriate official of the Department as a party.

SECTION 506—SEPARABILITY

Section 506 provides for separability in the event any part of the act is declared invalid.

SECTION 507—REFERENCE

Section 507 provides that, after the act takes effect, references in any other Federal law to a department, agency, officer or office from which functions were transferred shall be deemed references to the Secretary, or any other appropriate official, Department or appropriate component of the Department.

SECTION 508—AMENDMENTS

Section 508(a) amends the order of succession to the Presidency to add the Secretary of Education.

Subsection (b) adds the Department of Education to the list of Executive departments in the United States Code.

Subsection (c) amends a provision of civil service law to reflect personnel provisions of this act.

Subsections (d), (e), (f) and (g) provide for the pay of the Secretary, Under Secretary, and principal officers of the Department.

Subsection (h) conforms subchapter II of Chapter 53 of title 5 of the United States Code to the name change of the Department of HEW.

Subsection (i) amends section 306 of the Comprehensive Employment and Training Act of 1973 to reflect, with respect to consultation requirements imposed upon the Secretary of Labor by section 306, the fact that education functions have been transferred from the Department of Health, Education and Welfare by the act.

Subsection (j) amends section 103(c)(2)(B) of the Elementary and Secondary Education Act to require that the Secretary of Health and Welfare transmit required information to the Secretary of Education by a certain date each year.

SECTION 509—REDESIGNATION

Section 509 redesignates the Department and Secretary of Health, Education and Welfare as the Department and Secretary of Health and Welfare, and provides that any references in laws or regulations to the Department of Health, Education and Welfare shall be deemed to refer to the Department of Health and Welfare unless the reference is with respect to a function transferred by the act.

SECTION 510—TRANSITION

Section 510 permits the Secretary, with the consent of the head of any department of agency in the executive branch to make use of personnel of such department or agency for transitional purposes.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SECTION 601—EFFECTIVE DATE

Section 601 provides that the act is to take effect on October 1, 1979.

SECTION 602—INTERIM APPOINTMENTS

Section 602 provides that if an officer has not taken office when the act takes effect, the President may designate any officer of the executive branch to act in such office for 120 days or until it is filled, whichever occurs first. The compensation of the temporary appointee will be at the rate provided for the office temporarily held.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 19 OF TITLE 3, UNITED STATES CODE

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

(a)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that—

> (1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall act only until a President or Vice President qualifies; and
>
> (2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of [Health, Education, and Welfare] *Health and Welfare*, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, *Secretary of Education*.

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

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PART I—THE AGENCIES GENERALLY

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CHAPTER 1—ORGANIZATION

* * * * * * *

§ 101. Executive departments

The Executive departments are:

The Department of State.
The Department of the Treasury.
The Department of Defense.
The Department of Justice.
The Department of the Interior.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.
The Department of [Health, Education, and Welfare] *Health and Welfare.*
The Department of Housing and Urban Development.
The Department of Energy.
The Department of Education.

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

CHAPTER 51—CLASSIFICATION

* * * * * * *

§ 5108. Classification of positions at GS-16, 17, and 18

(a) A majority of the Civil Service Commissioners may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of [3301,] *3365*, in addition to any professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine which may be placed in these grades, and in addition to 340 administrative law judge positions under section 3105 of this title which may be placed in GS–16 and 9 such positions which may be placed in GS–17) which may be placed in GS–16, 17, and 18 at any one time. However, under this authority, not to exceed 25 percent of the aggregate number may be placed in GS–17 and not to exceed 12 percent of the aggregate number may be placed in GS–18. A position may be placed in GS–16, 17, or 18 only by action of, or after prior approval, by a majority of the Civil Service Commissioners.

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CHAPTER 53—PAY RATES AND SYSTEMS

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Subchapter II—Executive Schedule Pay Rates

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§ 5311. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Secretary of State.
(2) Secretary of the Treasury.
(3) Secretary of Defense.
(4) Attorney General.
(5) Repealed. Pub. L. 91-375, § 6(c)(12), Aug. 12, 1970. 84 Stat. 776.
(6) Secretary of the Interior.
(7) Secretary of Agriculture.
(8) Secretary of Commerce.
(9) Secretary of Labor.
(10) Secretary of [Health, Education, and Welfare] *Health and Welfare.*
(11) Secretary of Housing and Urban Development.
(12) Secretary of Transportation.
(13) Special Representative for Trade Negotiations.
(14) Secretary of Energy.
(15) Secretary of Education.

* * * * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(5) Under Secretary of Education.
(6) Under Secretary of [Health, Education, and Welfare] *Health and Welfare.*

* * * * * * *

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of [Health, Education, and Welfare (5)] *Health and Welfare (4).*

* * * * * * *

(25) *Principal Officers, Department of Education,* (6).

* * * * * * *

(41) General Counsel of the Department of [Health, Education, and Welfare] *Health and Welfare.*

* * * * * * *

(99) Commissioner of Social Security, Department of [Health, Education, and Welfare] *Health and Welfare.*

* * * * * * *

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of [Health, Education, and Welfare] *Health and Welfare* for Administration.

* * * * * * *

[(41) Commissioner of Education, Department of Health Education, and Welfare.]

(41) *Principal Officers, Department of Education,* (7).

* * * * * * *

(43) Commissioner of Food and Drugs, Department of [Health, Education, and Welfare] *Health and Welfare.*

* * * * * * *

(52) Commissioner of Vocational Rehabilitation, Department of [Health, Education, and Welfare] *Health and Welfare.*

(53) Commissioner of Welfare, Department of [Health, Education, and Welfare] *Health and Welfare.*

* * * * * * *

SECTION 306 OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

[CONSULTATION WITH SECRETARY OF HEALTH, EDUCATION, AND WELFARE

[SEC. 306. The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of State educational agencies with respect to education services. Such services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, he shall obtain the approval of the Secretary of Health, Education, and Welfare for such arrangements.]

CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND WELFARE

Sec. 306. The Secretary of Labor shall consult with the Secretary of Health and Welfare with respect to arrangements for service of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.

Section 103 of the Elementary and Secondary Education Act

GRANTS—AMOUNT AND ELIGIBILITY

Sec. 103. (a) * * *

* * * * * * *

(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.*

* * * * * * *

ADDITIONAL VIEWS OF HON. JOHN N. ERLENBORN, HON. BENJAMIN S. ROSENTHAL, HON. JOHN CONYERS, JR., HON. CLARENCE J. BROWN, HON. PAUL N. McCLOSKEY, JR., HON. GARRY BROWN, HON. CHARLES THONE, HON. TOM CORCORAN, HON. THOMAS N. KINDNESS, HON. ARLAN STANGELAND, AND HON. JOHN E. (JACK) CUNNINGHAM

We have particular objections to inclusion within a Department of Education of the operations and functions of Department of Defense overseas dependent schools. We concur in this conclusion with our colleague, John Erlenborn, ranking minority member of the subcommittee of the Committee on Education and Labor which has jurisdiction over Defense schools, and a cosponsor of House approved legislation which would provide Defense schools with a statutory basis.

By way of background, there are 267 overseas dependents' schools with an enrollment of 135,000, approximately 10,000 personnel, and a proposed fiscal 1979 budget of $350 million. This is comparable to the 11th largest school system in the U.S. The Office of Management and Budget reports that 77 percent of enrollment is concentrated in the European area (extending to the Persian Gulf), 20 percent in the Pacific, and 3 percent in the Atlantic.

Why do we oppose this transfer? For basically two reasons. First, the overseas schools are interwoven with the military communities abroad. Second, we do not believe a Department of Education should directly operate schools.

As to our first objection, there exists a strong relationship between DOD schools and the military. Primarily, military dependents attend these schools. It makes no sense to transfer authority over the education of these children to a Department with little or no interest in the welfare of military communities. Perhaps we should also permit the Agriculture Department to operate the House dining room because of its knowledge of food production, or include the Foreign Service within the Department because its purpose, after all, is education.

DOD schools depend on the Defense Department for a variety of services: personnel functions, warehousing, transportation of personnel and supplies, maintenance, food services, and school buses. The cost of duplicating these services would be prohibitive. Cooperative agreements are possible, of course, but the administrative hurdles would be enormous. Who would arbitrate disputes between the Secretaries of Defense and Education? Should we have the Office of the President decide who is responsible for school lunch facilities in England or bus service in Okinawa? Rufus E. Miles, Jr., long an advocate of a Department of Education and familiar professionally with the DOD schools, recommended against including them, citing problems of logistical support:

> The Department of Defense has a system in being that is operated overseas where the logistical support is adjunct to its other logistic support of bases and personnel. A Department of Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education. The costs would rise because of the need to duplicate such a support system. Again; the arguments against the operation of any schools by a Department of Education should, alone, be decisive.

Dr. Anthony Cardinale, Director, Dependents' Education added:

> The logistical support system necessary to maintain the worldwide dependents' education program is now provided by the base commander through the military departments. To remove the budgetmaking process and budget decisions from the military department and the Department of Defense places both in an inoperative position.

Significantly, the Office of Management and Budget in initially recommending against the transfer, said:

> Problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result. A transfer would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This could require an excessive amount of time of officials in higher reaches of both departments and produce adverse effects on the attainment of goals.

Our second objection is our belief that a Department of Education should not directly operate schools. With respect to DOD schools, we would have immediately what we fear most about a Department of Education—a Federal school board. The problems of running schools on a day-to-day basis and administering national policy are incompatible. Setting criteria for grant wards is far different from setting bus routes and enforcing attendance. Centralized direction in Washington would abrogate existing responsibility now resident in base commanders in the same way that we fear local and State control over schools will be diminished.

It is entirely possible—if not unquestionably probable—that the spanking-new Department of Education would view DOD dependents as laboratory mice, encouraging, if not mandating, certain teaching practices abroad with the intention of encouraging, if not mandating, what it viewed as its successes throughout the country.

Indeed, OMB saw this possibility as an argument against the transfer:

> There is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staff. At least at the outset, there could be an irrespressible urge to observe, study, and tinker with the programs of the schools.

The casualties of experimentation would be the 135,000 overseas dependent studies. Consistency in curriculum and educational programs is important to any child but is particularly necessary within the context of overseas schools, where the normal tour of duty is 3 years, entailing a change in overseas schools or from overseas to a stateside school every 3 years.

Those of us who have followed the fortunes of the overseas schools know that they have been subject to some trying times within the past few years. Although those problems have been mostly resolved, the implementation of a transfer to a new agency would unquestionably threaten the educational program and ensure that more attention would be paid to bureaucratic problems than to the needs of children. The welfare and morale of our armed forces demands that we reject this proposed transfer.

For these resasons, we are convinced the transfer of DOD overseas dependent schools to the Department of Education would be an unfortunate and unnecessary mistake.

John N. Erlenborn.
Benjamin S. Rosenthal.
John Conyer, Jr.
Clarence J. Brown.
Paul N. McCloskey, Jr.,
Garry Brown.
Charles Thone.
Tom Corcoran.
Thomas N. Kindness.
Arlan Stangeland.
Jack Cunningham.

ADDITIONAL VIEWS OF HON. MICHAEL T. BLOUIN

Upon introduction of this legislation on June 29, I indicated that I was pleased to cosponsor this legislation, and that I had long been a proponent of a Department of Education. I also indicated, however, that I seriously questioned the wisdom of the transfer of the Department of Interior/Bureau of Indian Affairs education programs to the new Department. This observation was also communicated to the subcommittee having jurisdiction over this legislation by two of my colleagues from the House, Hon. Shirley Chisholm of New York, and Hon. Albert H. Quie, ranking minority member of the Committee on Education and Labor, and who jointly worked with me the past 2 years on the Committee's Advisory Study Group on Indian Education.

The fact that the transfer of Bureau education programs was deleted from the bill at the subcommittee level, much to my delight, and also in that the committee fought off two attempts in full committee markup to place the Bureau's education program back into the bill, I feel it important to touch on the major reasons as to why the Bureau's education programs have been deleted from the committee bill.

(1) The Bureau of Indian Affairs is unique, in that it only has one constituent group—Indians. Furthermore, this clientele is the only group in the United States to have a legal, almost contractual, relationship with the United States requiring the United States to provide certain services; education being one of those services. This duty on the part of the Federal Government is often summed up by the term, "trust responsibility." This concept is a living, almost "gut level" feeling, which is understood by Indians and those who work with them, even if it is hard to formalize in writing. The Bureau is the only Federal agency who has had experience in working with, protecting and advocating for this trust responsibility for the past 100 years. I agree with the Indian nations that HEW, and specifically the Office of Education, does not understand this concept and has not practiced it.

(2) At the local level, education is a service inextricably intertwined with others. The principle of a BIA school is not only an educator, but in many cases he or she serves as the postmaster and expert on all BIA programs such as social services, land management, road maintenance, water questions, et cetera. A principle may act as the local advocate in the Bureu's area office matters. He takes complaints on all BIA questions to the proper authorities and he gets results, largely because he is a part of the BIA system. All of this would be severed if BIA education is removed.

(3) The Indian community by and large, views the transfer as a termination of many of the services they now receive, and in many instances they are correct, particularly for the smaller tribes. Currently the Bureau, by receiving HEW funds as a 51st State, provides "one stop" educational shopping for small, poor tribes. This allows tribes to (1) obtain funds through simplified applications, (2) learn of funds that they would otherwise receive no information on, and (3) formu-

late a coordinated and relevant local program based on all sources. The injection of a new and distant megadepartment into this delicate system will mean the death of this tenuous balance and the effective termination of vital programs.

"(4) My final point, is based on my own belief that education should be a local activity. We said as much in 1975 with the Indian Self-Determination Act when the Congress, with the best of motives, promised to ensure Indian control over Indian programs. That act, which I supported, went far towards showing to the Indian people that the decades of abuse, neglect, and, above all, paternalism, were coming to an end. If the Congress now would support the transfer of BIA programs over the almost unanimous objection of the Indian people in order to create something called a "broad-based Department of Education," the Nation will have sold its honor for an empty, indefensible phrase.

H.R. 13778, as reported from the committee, represents an approach to the creation of a Department of Education which recognizes the uniqueness of Indian education as distinct from other programs, even those programs such as Head Start and child nutrition, which are also deserving of their special status. I would urge my colleagues to support H.R. 13778 as reported by the committee.

MICHAEL T. BLOUIN.

DISSENTING VIEWS OF HON. BENJAMIN S. ROSENTHAL, HON. JOHN CONYERS, JR., HON. HENRY A. WAXMAN, HON. PETER H. KOSTMAYER, AND HON. TED WEISS

Congressional authority to create Cabinet-level departments should be exercised with careful restraint and only after an overwhelming show of necessity. Proponents of H.R. 13778 have failed to show that a separate Federal education department would improve the delivery or quality of education services in the United States. We, therefore, oppose its creation.

It is argued that a Cabinet-level Department of Education is needed to increase the visibility and status of Federal education programs and to improve their coordination. "Visibility" and "status" are undefined catch phrases which hardly justify creation of a cabinet level department of education. These goals can be achieved with the present structure of HEW.

In fact, as members of the committee of the Congress most familiar with the structure of government, we are convinced that the weaknesses in present Federal education efforts are totally unrelated to organizational deficiencies.

When the original department of education bill was submitted to the Congress it contained programs for child nutrition, science education and Indian education. These programs were properly removed from the oriignal bill. As a consequence, increased coordination of existing education programs, which proponents argued would take place under the original bill, will not be achieved under the bill reported by the committee.

It is also our view that Cabinet-level departments should be established only where there is a major national policy to carry out. There is no such major national policy with respect to Federal education efforts. It is important to note, that the three new departments that have been created in recent years—HUD, Transportation, and Energy—were established for the purpose of implementing national policy. Such is not the case here.

Greater Federal concern with education does not require and is not assured by the creation of a separate department. Rather, it requires an administration and Congress committed to providing the additional funds necessary to expand educational services. It is evident from the administration's 1979 budget, which increase education funding by 30 percent, that increased appropriations are not dependent upon the creation of a new department. Further assurances of Federal attention to the area might best come with the appointment of an Undersecretary of Education within the Department of HEW.

An irony of the attempt to create a Federal Department of Education is that the bulk of its employees would come not from the present Office of Education at HEW but from the Department of Defense's Overseas Dependent Schools Program, which would transfer 9,200 employees to the proposed new department.

Our commitment to education runs deep. But the proposal to create a separate cabinet level department of education lacks substance. Education already has cabinet status and more than enough people to hold accountable for flaws in our education efforts. The proposed legislation adds the words "new" and "improved" to the label of a product which would remain essentially the same.

The quest for quality in education must continue. But it will not be advanced by the arbitrary isolation of educational programs from other social services. As members of the House Committee on Government Operations, we strongly believe that major organizational shifts should not take place for cosmetic purposes. We therefore, oppose H.R. 13778.

Benjamin S. Rosenthal.
John Conyers, Jr.
Henry A. Waxman.
Peter H. Kostmayer.
Ted Weiss.

DISSENTING VIEWS OF HON. LEO J. RYAN

This bill is the worst bill I have seen in my 6 years in the House.

It is more than a benign "reorganization" of the Office of Education. It is a massive shift in the emphasis by the Federal Government from supporting the local efforts of school districts and State departments of education to establishing and implementing a national policy in the education of our children.

It is more than a logical consolidation of Federal education programs housed in various Federal agencies. It is a hasty, ill-conceived, and poorly executed attempt at consolidation that will not function. The bill has been ripped apart and sewn back together so many times with the deletion of Indian education programs, child nutrition programs, international education provisions and the addition of vocational rehabilitation programs that the "cloth" has become tattered beyond recognition.

It is more, more, more * * *

It is more money. The present Office of Education budget is tipping the scales at almost $10 billion a year. The budget of the Office is greater than the department budgets of six other agencies, including the Departments of Commerce, Energy, Transportation, Interior, Justice, and State. Should the Office of Education become a department, conservative estimates set the price tag for the first year of operation at $14.4 billion.

It is more personnel. The Department would be increased by 9,200 people from the Department of Defense alone, just to run the overseas dependent schools. That means that over 50 percent of the personnel of the new Department of Education will be operating the first national school system! Why? Over 42 new super-grade positions would be created to administer what advocates of the change are quick to point out is "just a reorganization."

It is more advisory committees. The Department would be "blessed" with an Intergovernmental Advisory Committee on Education—a misnomer if I ever heard one. It will, in fact, be the National School Board of Education. The creation of this committee directly contradicts one of the major purposes of the legislation spelled out in title I which states:

> The responsibility for education has been and must remain primarily with State and local governments; public and nonpublic institutions, communities, and families.

Furthermore, there is a direct prohibition in the bill against the department exercising "any direction, supervision, or control over the curriculum, program of instruction, administration or personnel of any educational institution, school or school system. . . ." How can this National School Board serve any function whatsoever and not impinge on the prerogatives of local school districts to govern themselves?

What's more, it is another advisory committee at a time when Proposition 13 has committed us to cutback these committees that have cost the Government over $65 million in 1977 to operate and will cost an estimated $76 million in 1978. Of course, the funding for the Department of Education's Intergovernmental Advisory Committee on Education has not yet been ascertained nor computed into the proposed budget for the Department.

Finally, I make these observations having spent 30 years of my life in education as a school teacher of primary through college-level students, as a school superintendent, and as a chairman of the school finance committee in the California State Assembly where I was a member for 10 years.

If there is truly a need for a new Department of Education as a Cabinet-level agency, it deserves more than hasty consideration at the overworked end of an extremely busy session of Congress.

LEO J. RYAN.

DISSENTING VIEWS OF HON. PETER H. KOSTMAYER

The question that Congress must now decide in considering whether or not to establish a separate Cabinet-level Department of Education is simply how much influence should the Federal Government have on education in this country? Or, what should the role of the Federal Government (not the State or local governments) be in American education?

For fiscal year 1979 the Congress has appropriated about $23 billion for elementary, secondary and post-secondary educational programs. Those dollars fund such programs as the GI bill, the National Defense Education Act and the Elementary and Secondary Education Act of 1965. While all these programs contribute to the country's general educational needs they are only indirectly related to education and directly serve some other purpose. For example, the purpose of the GI bill is to aid in the readjustment of returning veterans, the National Defense Education Act was established during the 1950's in an effort to prepare American students in advanced technology so that the Nation might not fall behind rapidly advancing Soviet technology, and the Elementary and Secondary Education Act was really a civil rights measure aimed at reducing the woes of the disadvantaged. And so while all of these programs are in the broadest sense educational, their original intent clearly was not.

So why should they become part of a Department of Education?

Education in America is still genuinely a local phenomena. It serves a local constituency, is funded locally, is administered locally and derives its political power from locally elected school boards. Establishing a separate Department of Education would not only combine educational programs throughout the Government, which might not be a bad idea, but would also mark the beginning of a Federal education policy. That would be a severe break with the past, and whether members agree with such a break or not they should recognize it for what it is. This is not simply the consolidation of a number of functions now spread throughout the Federal Government, although of course it is in part that. Rather, it is really the beginning of a new role for the Federal Government in American education. This is not simply a matter of reorganization.

Both the administration and National Education Association strongly support this legislation for two reasons: first they maintain it will bring about greater efficiency and secondly, greater visitibility to education.

It may well do both, although I think it's possible that the establishment of a separate cabinet-level department could actually increase inefficiency. Initially, I suppose greater visibility for education will occur. But that reason seems to me to be largely cosmetic and I simply do not find it compelling enough to support the establishment of this department.

A new Cabinet-level Department of Education will engage itself in matters far too esoteric such as research and administration. The real problems of American education are not esoteric, they are in the classroom in our big cities, in the small towns and in suburban areas such as I represent. They cannot be solved best by administrators, but by teachers in the classroom.

The National Education Association which plays a role in all of our campaigns, and which strongly supports this department is a factor in these deliberations. This seems to me to be another example of doing something largely at the behest of a special interest group, albeit in this case a very well motivated special interest group.

America's old people want a Department of Aging, her veterans want a Department of Veterans' Affairs, her teachers want a Department of Education and not long ago the Federal Paperwork Commission issued a report (in 36 volumes) recommending the establishment of a separate Department of Administration which the Commission informed us would go a long way toward solving the problems of excess paperwork in the Nation's capital. Enough is enough.

All of these groups want simply to elevate in status their own interests, and while I have no quarrel with their effort to do so, and while I do not question their motivation, I believe our approval of their efforts will only exacerbate the power, the influence and the status of the special interests in Washington. We must reject their efforts.

A good case for a separate Department of Education simply has not been made. I know that in an election year members will be under enormous pressure to support it. But I hope they will reject it. To do so would be best for education in America.

PETER H. KOSTMAYER.

DISSENTING VIEWS OF HON. JOHN N. ERLENBORN, HON. JOHN W. WYDLER, HON. CLARENCE J. BROWN, HON. PAUL N. McCLOSKEY, JR., HON. DAN QUAYLE, HON. ROBERT S. WALKER, HON. ARLAN STANGELAND, AND HON. JOHN E. (JACK) CUNNINGHAM

The New York Times said it best in the headline to its lead editorial on January 16, 1978: "The High Price of Cheapening the Cabinet."

To quote from that editiorial: "It is an empty, even harmful idea, bad for the President, bad for the Cabinet, bad for education."

Why then is a proposal for a Department of Education before the House?

Because it was a campaign promise of the President which earned him the endorsement of one of the largest labor organizations in the country—the National Education Association. H.R. 13778 is a political payoff in every sense of the word. It is the cargo preference legislation of the education community.

Again the Times:

> There is no (such) sudden, overriding importance to justify creating a Department of Education. To do so would keep a campaign promise; it would tickle the education world's sense of importance . . . but it is hard to see . . . what such a reorganization would do to benefit actual education.

And that last point is at the heart of the problem.

Since education in this Nation is a function reserved to the states under the Constitution, this reorganization will either be a colossal bureaucratic blunder wasting tens of millions of dollars, or if successful it will result in the domination of education by the Federal Government.

As an article in the August 6, 1978, edition of the Washington Post head-lined, "Creating a New Department Is a Backdoor Way to Establish a U.S. Responsibility for Education Itself."

The President and the committee have failed to heed the word of the majority whip, Representative John Brademas, who said at a conference last year, "Organization is not just management. It is policy, and in the American democratic system, policy is politics . . . every reorganization means a distribution—or redistribution—of power and influence over the substance of policy . . ."

As the lead paragraph in the Post article, an article written by the former education editor of the Post and a Brookings scholar, noted:

> With virtually no public debate over the actual issue at stake, the Carter administration and the Congress are moving toward creating a Federal department of education with the potential to transform the way education is governed in the United States.

The article goes on:

> Establishing a Cabinet-level department is a backdoor way of creating a national education policy, of breaking with the long tradition of a limited federal involvement in education and of virtually no federal responsibility for schools and colleges themselves . . .
>
> It is difficult to imagine how creation of a department . . . can fail to generate additional pressure for Washington involvement.

Think carefully about what is proposed; a major redirection of education policymaking in the guise of an administrative reorganization—a signal of the intention of the Federal government to exercise an ever-expanding and deepening role in educational decisionmaking. If the Federal Government has a role to play in education, it is confined to financial assistance although, even here, principal financial responsibility lies with state and local governments.

Why are we being rushed into a decision on an issue of such importance with so little thought? Rather than rush headlong into a rash decision, the bill should be put aside until the next Congress with a clear understanding that extensive hearings be held, hearings that would include sessions outside of Washington so that a wide variety of lay citizens can be heard.

The argument has been made that the great number of Federal programs, including education, means that the function merits Cabinet-level status.

That argument fails to recognize that outside of the Education Division of HEW, virtually every program labeled education is integrally related to the mission of another agency. Why should science education be separated from the National Science Foundation? How can you separate the schools on an Army base in Germany from the total military community? Are health education programs separable from a comprehensive health policy?

Proponents also argue that the United States is one of the few Western nations which does not have a ministry of Education. That is exactly as it should be! In France, a nation with a ministry, one can enter any third or fourth or fifth grade classroom in the country at a given time of day and find the same subject being taught in the same way. That is the worst possible argument for a department!

H.R. 13778 takes the first major concrete step in that direction by directing that this new agency is to operate what is equivalent to the 11th largest school system in the Nation—the overseas dependents schools of the Department of Defense with some 135,000 students.

Because of a fear that the natural inclination of the bureaucracy will be to widen its sphere of control, the Congress has faithfully prevented the U.S. Office of Education from operating any schools. In one leap that policy will have been violated in a major and decisive way.

The operation of schools has nothing to do with the administration of Federal grant programs. Although we are amused and somewhat comforted by the notion that the new Secretary will be so busy supplying second grade spelling books to the dependents schools in Bahrain that he or she will be unable to cope with the policy issues of the department, common sense and principles of management dictate the separation of school operation from the new department, if it is created.

In opposing this new bureaucratic chameleon—it seems to change colors at each viewing—we are not alone. In the brief time which was available, the subcommittee did hear opposition from the American Federation of Teachers, the AFL-CIO, the U.S. Catholic Conference, and others. (The major proponent was the NEA.) As our colleague, Representative Shirley Chisholm, noted in her testimony before the Committee:

> Let me conclude by stating that my yardstick for measuring the advisability and necessity for creation of a separate Department of Education is simple. I ask myself one question: Will such a department significantly improve instruction and educational opportunities for this country's children? I can conclusively state that I know of no convincing evidence which leads me to believe that a cabinet-level Department of Education or other structural changes will guarantee achievement of this most critical national objective.

The tentacles of the Federal Government are everywhere; they cannot be avoided. If we create this Department, more educational decisionmaking as to course content, textbook content, and curriculum will be made in Washington at the expense of local diversity. The tentacles will be stronger and reach further. The Department of Education will end up being the Nation's super schoolboard.

That is something we can all do without.

JOHN N. ERLENBORN.
JOHN W. WYDLER.
CLARENCE J. BROWN.
PAUL N. MCCLOSKEY, Jr.
DAN QUAYLE.
ROBERT S. WALKER.
ARLAN STANGELAND.
JACK CUNNINGHAM.

DISSENTING VIEWS OF HON. PAUL N. McCLOSKEY, JR.

I do not see the need to create a Cabinet-level Department of Education and concur in the dissenting views of my colleague, Mr. Erlenborn. It seems to me that one of our major goals today is to cut down the size, cost and complexity of government. We seek, wherever possible, to assign one task of government to one level of government. Education basically involved a child, a school, a teacher and books. To have a local department of education, a county department of education, and a State department of education is enough. To have a Federal Department of Education to do more than coordinate and assist those levels, I think, is bizarre.

Whenever excellence in education has been achieved, it has usually been through individual teachers or schools at the local level. To my knowledge, the Federal Government has not been more, nor should it be more, than a coordinator, a furnisher of funds or an enforcer of equal educational opportunity. Clearly, none of these functions deserve Cabinet status, and there has been no showing to our committee that Cabinet status will be beneficial.

Further, however, I have a deep suspicion the real intent behind the new Cabinet office is to enlarge, rather than reorganize, the Federal efforts to achieve better education. I have prepared an amendment to prevent this.

My amendment is simple. It merely insures that the new Department will be smaller in budget outlays and personnel than the number of programs and people it is reorganizing. The House will recall that a similar amendment of mine was overwhelmingly adopted by the House when the administration asked us to reorganize the Government's consumer agencies by creating a single Office of Consumer Protection.

A second amendment will be offered to rewrite the findings in the preamble of the bill as follows:

> Sec. 101. The Congress of the United States finds that—
>
> (1) education is fundamental to the development of the individual and to the growth of the Nation;
>
> (2) the current structure of the executive branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education, and Welfare, which of necessity directs its primary attention to the problems of health and welfare;
>
> (3) the primary responsibility for education has been and should remain with State and local governments, public and non-public institutions, communities, and families;
>
> (4) there is a continuing need to ensure equality of educational opportunity and to improve the quality of education and it is appropriate that there be an indepen-

dent Office of Education in the Federal government to coordinate assistance to State and local governments; and

(5) the number, fragmentation, and complexity of Federal education programs has created management problems at the Federal, State, local, and institutional levels, which should be ameliorated by separating, simplifying, and decreasing the size of the U.S. Office of Education.

Under this set of purposes, it is clear the Office of Education, while separated from HEW, need not be assigned Cabinet status and the inherent powers of policymaking which Cabinet status infers.

PAUL N. MCCLOSKEY, JR.

Union Calendar No. 812

95TH CONGRESS
2D SESSION

H. R. 13778

[Report No. 95–1531]

IN THE HOUSE OF REPRESENTATIVES

AUGUST 8, 1978

Mr. BROOKS (for himself, Mr. MOSS, Mr. BLOUIN, Mr. HORTON, Mr. CORCORAN of Illinois, Mr. PERKINS, Mr. THOMPSON, and Mr. DAVIS) introduced the following bill; which was referred to the Committee on Government Operations

AUGUST 25, 1978

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

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Sec. 1. Short title; table of contents.
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TITLE II—ESTABLISHMENT OF THE DEPARTMENT

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Sec. 208. Office for Civil Rights.
Sec. 209. Functions relating to special education and rehabilitation services.
Sec. ~~209.~~ *210.* Functions relating to education of overseas dependents.
Sec. ~~210.~~ *211.* Intergovernmental Advisory Council on Education.
~~Sec. 211. Federal Interagency Committee on Education.~~

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TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

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TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof, and the term "Secretary" means the Secretary of Education.

(b) As used in this Act, "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

TITLE I—FINDINGS AND PURPOSE

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of the individual and to the growth of the Nation;

(2) the current structure of the executive branch fails to give adequate recognition to the importance of education;

(3) the responsibility for education has been and must remain primarily with State and local governments, public and nonpublic institutions, communities, and families;

(4) there is a continuing need to ensure equality of educational opportunity;

(5) there is a continuing need to improve the quality of education; and

(6) the number, fragmentation, and complexity of Federal education programs has created management

problems at the Federal, State, local, and institutional levels.

PURPOSE

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this department will help ensure that education issues receive proper attention at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. It is therefore the purpose of this Act to establish an executive department *to administer Federal education laws.* ~~to be responsible for—~~

~~(1) continuing and strengthening the Federal commitment to ensuring equal educational opportunities for every individual;~~

~~(2) promoting the quality of education and its relevance to individual needs, with special emphasis on basic skill development, academic excellence, and lifelong learning opportunities;~~

~~(3) broadening the approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, communities, the workplace, and other institutions;~~

~~(4) promoting effective partnerships among Federal, State, and local governments, the private sector, public and nonpublic institutions, community organizations, and families to improve the utility and quality of education;~~

~~(5) providing leadership in support of research relating to human development and learning systems; collecting and analyzing information on the progress and condition of American education; and sharing findings of such research and analysis with State and local officials, other Federal agencies, public and nonpublic institutions, community organizations, and parents;~~

~~(6) improving the design and management of education and related programs by simplifying Federal processes and procedures and by eliminating unnecessary requirements and constraints on the recipients of Federal funds;~~

~~(7) encouraging the involvement of parents and the community in development and implementation of education programs and services; and~~

~~(8) providing leadership to Federal efforts to improve the quality of and access to education, through interagency cooperation, technical assistance, and evaluations of program effectiveness.~~

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent explicitly authorized by statute.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level I of the Executive Schedule under section 5312 of title 5, United States Code. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with

the advice and consent of the Senate, and be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Under Secretary shall perform such functions as the Secretary shall from time to time prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six principal officers who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and ~~six~~ *seven* principal officers who shall be appointed by the President, by and with the advice and consent of the Senate, and be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Such officers shall perform, in accordance with applicable law, such functions as the Secretary shall from time to time prescribe in accordance with the provisions of this Act. The functions which the Secretary shall assign to the principal officers include, but are not limited to, the following:

(1) intergovernmental relations functions;

(2) congressional relations functions;

(3) public information functions;

(4) management and budgeting functions;

(5) planning, evaluation, and policy development functions; and

(6) ~~monitoring, supervising,~~ *monitoring* and assisting ~~in parental and~~ public involvement in the development and implementation of departmental programs.

(b)(1) When the name of a person to serve as one of the principal officers created by subsection (a) of this section is submitted to the Senate for confirmation, the President shall designate whether that person shall hold a position compensated at level IV of the Executive Schedule or at level V of such Schedule, and the particular functions the person shall exercise upon taking office.

(2) Except as otherwise expressly required by this Act, and notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate and reallocate functions of the Department among the officers of the Department and name and rename the titles of the offices they hold as the Secretary may deem appropriate.

OFFICE OF INSPECTOR GENERAL

SEC. 203. There shall be in the Department an Office of Inspector General under the direction of an Inspector General, who shall be one of the principal officers established by section 202 of this Act. The Inspector General shall have the functions transferred by section 301(b) of this Act and shall perform the same functions with respect to all functions of the Department, or of any officer or component thereof.

GENERAL COUNSEL

SEC. 204. There shall be in the Department a General Counsel, who shall be one of the principal officers established by section 202 of this Act and shall provide legal assistance to the Secretary concerning the policies and programs of the Department.

RESEARCH AND IMPROVEMENT FUNCTIONS

SEC. 205. There shall be in the Department an office to administer research, development, and dissemination functions with respect to improved education and training practices. The director of such office shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

FUNCTIONS RELATING TO ELEMENTARY AND SECONDARY EDUCATION

SEC. 206. There shall be in the Department an office to administer functions relating to elementary and secondary education whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

FUNCTIONS RELATING TO POSTSECONDARY EDUCATION

SEC. 207. There shall be in the Department an office to administer functions relating to postsecondary education whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

OFFICE FOR CIVIL RIGHTS

SEC. 208. (a) There shall be in the Department an Office for Civil Rights whose Director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act who is compensated at the rate provided for level IV of the Executive Schedule.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(2)(A) of this Act.

(c) The Director of the Office for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of such Office during the previous year, under all the authorities within its jurisdiction, and identifying significant civil rights

or compliance problems concerning which such Office has made a recommendation for corrective action on which, in the judgment of the Director, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Director without further clearance or approval. The Director shall, insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Director of the Office for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data related to compliance with civil laws necessary to ensure compliance with civil rights law within its jurisdiction;

(2) in the event that a budget request for such Office is reduced, before submission to Congress, to an extent which the Director deems seriously detrimental to the adequate performance of the functions mandated by this section, to and shall so inform Congress without delay;

(3) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates; and

(4) to obtain services as authorized by section 3109 of such title at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of such title.

FUNCTIONS RELATING TO SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 209. (a) There shall be in the Department an office to administer special education and rehabilitation services functions whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by sections 301(a)(2)(J) and 301(a)(3) of this Act.

(c) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS DEPENDENTS

SEC. ~~209.~~ *210.* (a) There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense whose director shall report directly to the Secretary and shall be one of the principal officers established by section 202 of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by this section all functions, other than administrative and support functions, vested in the Secretary by section 302 of this Act.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. ~~210.~~ *211.* (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter referred to as the "Council"). The Council shall conduct studies and make recommendations to the President and the Secretary for improving the intergovernmental system for developing and carrying out educational policies.

(b) The Council shall—

(1) provide a forum for representatives of educational interests to discuss educational and related policies;

(2) study the most desirable allocation of educational and related responsibilities among the several levels of government;

(3) make recommendations for improving the administration and operation of Federal education and education related programs;

(4) promote better intergovernmental relations while ensuring that Federal objectives are achieved;

(5) assess the capacity of the educational system to deliver equitable and effective education;

(6) submit a triennial report to the President and the Secretary reviewing the impact of Federal education policies upon State and local governments and public and nonpublic educational institutions and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions; and

(7) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable and effective education.

(c)(1) The Council shall have twenty members appointed by the President, with four of such members to be selected from each of the following categories:

(A) elected State and local officials;

(B) citizens, including parents and students;

(C) representatives of civil rights and other public interest groups;

(D) representatives of public and nonpublic preschool, elementary, and secondary education, including board members, administrators, and teachers; and

(E) representatives of public and nonpublic postsecondary education, including board members, administrators, and teachers.

(2) Each member shall have a term of four years, except that—

(A) no member who is a State or local official may serve on the Council beyond the period that such member holds the office from which such member was appointed to the Council; and

(B) the President shall designate each of the initial appointments in each category under paragraph (1) of this subsection for a term of one, two, three, or four years.

(3) The President shall designate one member to chair the Council.

(d) The Secretary shall provide such funds, space, staff, and other assistance as may be necessary for the effective operation of the Council.

(e) The Council shall remain in existence until terminated by Act of Congress.

~~FEDERAL INTERAGENCY COMMITTEE ON EDUCATION~~

~~Sec. 214. (a) There is hereby established a Federal Interagency Committee on Education (hereinafter referred to in this Act as the "Committee").~~

~~(b) The Committee, after study, shall make such recommendations as may be necessary to assure effective coordination of Federal programs affecting education, including—~~

~~(1) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;~~

~~(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;~~

~~(3) adequate procedures to assure the availability of information requested by the Secretary; and~~

~~(4) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.~~

~~(c) The Committee shall be composed of the Secretary, who shall chair the committee, and representatives designated by such Federal agencies, commissions, and boards as the Secretary may from time to time deem appropriate with regard to the matters under consideration.~~

~~(d) The head of each component of the Executive Office of the President may designate a staff member to attend meetings of the Committee as an observer.~~

~~(e) The Committee shall meet at least twice each year.~~

~~(f) The Secretary shall, and each Federal agency represented on the Committee under the provisions of subsection (c) of this section may, furnish funding and other necessary assistance to the Committee.~~

TITLE III—TRANSFERS OF FUNCTIONS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sec. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions principally involving education vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) of the Office for Civil Rights relating to education;

(B) under the General Education Provisions Act;

(C) under section 808 of the Elementary and Secondary Education Act of 1965;

(D) under the Emergency School Aid Act;

(E) under the Higher Education Act of 1965;

(F) under the Emergency Insured Student Loan Act of 1969;

(G) under the Act of August 30, 1890 (7 U.S.C. 321-328);

(H) under the Environmental Education Act;

~~(I) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;~~

~~(J) under the International Education Act of 1966;~~

~~(K)~~ *(I)* under the National Defense Education Act of 1958;

~~(L)~~ *(J)* under the Education of the Handicapped Act;

~~(M)~~ *(K)* under part B of title V of the Economic Opportunity Act of 1964;

~~(N)~~ *(L)* under subparts I and II of part C of title VII and part B of title VIII of the Public Health Service Act;

~~(O)~~ *(M)* under the National Commission on Libraries and Information Science Act;

~~(P)~~ *(N)* under the Vocational Education Act of 1963;

~~(Q)~~ *(O)* relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

~~(R)~~ *(P)* under the Model Secondary School for the Deaf Act;

~~(S)~~ *(Q)* relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934; and

~~(T)~~ *(R)* under section 203(k) of the Federal Property and Administrative Services Act of 1949;

(3)(A) all functions with respect to or being administered through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the

Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;

(B) all functions of the Secretary of Health, Education, and Welfare under sections 405(a)(5) and 405(c) of the Rehabilitation Act of 1973;

(C) all functions with respect to or being administered through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, popularly known as the Randolph-Sheppard Act (20 U.S.C. 107–107f);

~~(3)~~ *(4)* authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education, except that the Secretary may terminate or combine one or more of such advisory committees;

~~(4)~~ *(5)* all functions vested in the Institute of Museum Services in the Department of Health, Education, and Welfare or in any officer thereof; and

~~(5)~~ *(6)* all functions vested in the Advisory Council on Education Statistics.

(b) There are hereby transferred to the Inspector General of the Department all functions vested in the Office of Inspector General of the Department of Health, Education, and Welfare, or in any officer of such office, relating to functions transferred to the Secretary by this Act.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of Defense or the Department of Defense relating to the operation of schools for overseas dependents of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education of overseas dependents of personnel of the Department of Defense.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred and authorized by this section.

(d) Notwithstanding the provisions of section 601 of this Act, the transfer of functions specified in subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 303. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 304. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 305. The transfer of a function or program from an officer or agency to the Secretary or to the Department includes any aspects of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed, or proposed, as of June 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS-16,

GS-17, and GS-18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position and duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position leaves such position.

(e) In addition to the number of positions which may be placed at the GS-16, GS-17, and GS-18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may—

(1) with respect to the office established by section 205 of this Act, appoint professional and technical employees of such office, not to exceed ~~one-third of the total number of employees of such office;~~ *one hundred and forty individuals;* and

(2) appoint not more than fifteen transitional employees,

without regard to the civil service laws and may fix compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The authority provided

by clause (2) of this subsection, appointments made thereunder, and the authority to compensate personnel appointed thereunder shall expire three years after the effective date of this Act.

~~(d)(1) There are authorized for the Department sixty-four additional positions in the competitive service at grade levels GS-16, GS-17, and GS-18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.~~

~~(2) The Secretary is authorized to assign twenty-one of the positions authorized by this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level each of such position and make any necessary reductions in such level.~~

~~(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS-16, GS-17, or GS-18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 per-~~

~~cent shall be deemed GS–16 positions, 25 percent shall be deemed GS–17 positions, and 12 percent shall be deemed GS–18 positions.~~

~~(c) In making appointments under subsections (b) and (d) of this section, the Secretary may place in grade GS–16, GS–17, and GS–18 not more than one hundred and thirteen individuals.~~

(d) Excluding appointments under subsection (c) of this section, the Secretary may place in grades GS–16, GS–17, and GS–18 not more than one hundred and thirteen individuals.

~~(f)~~ *(e)* Notwithstanding the transfer of functions effected by section 302 (and the consequent transfer of personnel), personnel performing such functions shall be treated, for purposes of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS–18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

~~ADVISORY COMMITTEES~~

~~SEC. 403. The Secretary is authorized to establish, combine, or terminate such advisory committees as the Secretary may deem appropriate to assist in the performance of the functions vested in the Secretary or the Department.~~

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary or any officer or employee of the Department may exercise, in carrying out such function, any authority or part thereof available by law (including appropriation Acts) with respect to such function to the official or agency from which such function was transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function vested in the Secretary to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to ~~establish,~~ alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions vested by this Act in any organizational unit or component.

RULES

SEC. 424. *(a)* The Secretary is authorized to ~~prescribe, in accordance with chapter 5 of title 5, United States Code,~~ *prescribe* such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 302, 303, and 304 of this Act.

(c) Each notice published by the Secretary of a proposed rule to administer and manage the functions vested in the Secretary or the Department shall be accompanied by a detailed statement by the official in the Department who is responsible for the issuance of the rule describing the economic impact of the proposed rule including, but not limited to, an analysis of:

(1) the cost impact of the rule on Federal, State, and local governments and school systems;

(2) the effect the rule will have on productivity, efficiency, and economy, including, but not limited to, the anticipated benefits;

(3) the effect the rule will have on improvement of education;

(4) the estimated cost of implementing, monitoring, and enforcing the rule by the agency issuing the rule;

(5) adverse economic impacts that the rule will cause that cannot be avoided; and

(6) alternatives to the rule that the responsible official had considered along with a finding as to why the alternatives were not proposed.

CONTRACTS

SEC. 425. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

(b) Notwithstanding any other provisions of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary, subject to section 403(c)(2) of the General Education Provisions Act, is authorized to ~~establish,~~ maintain, alter, or discontinue such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and ~~related facilities,~~ *related facilities (only to the extent operation of schools by the Department is authorized by this Act),* laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary.

(b) The Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real

property, or any facility, structure, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary and the Secretary of the Treasury. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 432. There is hereby authorized to be established for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary, with the approval of the Director of the Office of Management and Budget, shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space,

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central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act, in any fiscal year, transfer funds from one

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appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 10 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practicable after each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any other functions that may be vested in the Department and the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act ~~to the extent applicable immediately prior to the effective date of this Act.~~

TECHNICAL ADVICE

SEC. 438. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, immediately prior to the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions vested by law in any agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316), shall terminate.

INCIDENTAL TRANSFERS

Sec. 504. The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions pursuant to this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, offices, and other entities terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

Sec. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of

such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, Department, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Welfare" and by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Welfare"; and

(2) by adding at the end thereof the following: "The Department of Education."

(c) Section 5108(a) of title 5, United States Code is amended by striking out "3301" and inserting in lieu thereof "3365".

~~(c)~~ *(d)* Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

~~(d)~~ *(e)* Section 5314 of title 5, United States Code, is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

~~(e)~~ *(f)* Section 5315 of title 5, United States Code, is amended—

(1) by striking out "(5)" in paragraph (17) and inserting in lieu thereof "(4)"; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Principal Officers, Department of Education, (6).".

~~(f)~~ *(g)* Section 5316 of title 5, United States Code, is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Principal Officers, Department of Education, ~~(6)~~ *(7)*.".

~~(g)~~ *(h)* Subchapter II of chapter 53 of title 5, United States Code, is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Welfare".

~~(h)~~ *(i)* Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND WELFARE

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Welfare with respect to arrangements for service of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

~~(k)~~ (j) Section 103(c)(2)(B) of the Elementary and Secondary Education Act is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year."

~~(j) Section 5 of the Alcohol and Drug Abuse Education Act is amended—~~

~~(1) by inserting "of Health and Welfare, the Secretary of Education" after "Secretary"; and~~

~~(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Welfare, the Department of Education,".~~

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare, the Secretary of Health and Welfare, or the appropriate official of the Department of Health and Welfare, respectively, except to the extent such reference is to a function transferred to the Secretary or the Department by this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect on October 1, 1979.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

1077

96TH CONGRESS
1ST SESSION

H. R. 2444

To establish a Department of Education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1979

Mr. BROOKS (for himself, Mr. FASCELL, Mr. ST GERMAIN, Mrs. COLLINS of Illinois, Mr. PREYER, Mr. DRINAN, Mr. ENGLISH, Mr. FITHIAN, Mr. MATSUI, Mr. PERKINS, Mr. THOMPSON, Mr. DAVIS of South Carolina, Mr. AKAKA, Mr. BALDUS, Mr. BEDELL, Mr. BLANCHARD, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BONKER, Mr. BOWEN, Mr. BRODHEAD, Mr. BUCHANAN, Mr. CARR, Mr. CAVANAUGH, Mr. CORCORAN, Mr. CORMAN, Mr. CORRADA, Mr. DASCHLE, Mr. DERRICK, Mr. DIXON, Mr. DODD, Mr. EDGAR, Mr. FAZIO, Mr. FOLEY, Mr. FORD of Tennessee, Mr. GINN, Mr. GORE, Mr. GUDGER, Mr. HARRIS, Mr. HEFTEL, Mr. HOLLAND, Mr. JENKINS, Mr. JENRETTE, Mr. JONES of Tennessee, Mr. KILDEE, Mr. KOGOVSEK, Mr. LOWRY, Mr. MCCORMACK, Mr. MARKEY, Mr. MARRIOTT, Mr. MIKVA, Mr. NEAL, Mr. NOLAN, Mr. PATTERSON, Mr. PRITCHARD, Mr. QUILLEN, Mr. RAHALL, Mr. RATCHFORD, Mr. ROSE, Mr. SHANNON, Mr. SMITH of Iowa, Mrs. SPELLMAN, Mr. STUMP, Mr. SWIFT, Mr. TRAXLER, Mr. UDALL, Mr. ULLMAN, Mr. VENTO, Mr. WEAVER, Mr. WHITLEY, Mr. WIRTH, Mr. WOLFF, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Government Operations

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A BILL

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

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Sec. 1. Short title; table of contents.
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TITLE II—ESTABLISHMENT OF THE DEPARTMENT

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Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Educational Research and Improvement.
Sec. 207. Functions relating to education of overseas military dependents.
Sec. 208. General Counsel.
Sec. 209. Inspector General.
Sec. 210. Intergovernmental Advisory Council on Education.
Sec. 211. Interdepartmental Education Coordinating Committee.

TITLE III—TRANSFERS

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Sec. 302. Transfers from the Department of Labor.
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Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

TITLE I—FINDINGS AND PURPOSE

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) the primary responsibility for education resides with States, localities, and private institutions;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions in carrying out their educational responsibilities;

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the involvement of the public, parents, and students in Federal education programs; and

(7) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level I of the Executive Schedule under section 5312 of title 5, United States Code. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions; and

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs.

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The

Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within its jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates; and

(3) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rates prescribed for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal advisor to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the office.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 206. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 207. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense the director of which shall be one of the officers appointed under section 202 of this Act.

GENERAL COUNSEL

SEC. 208. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

OFFICE OF INSPECTOR GENERAL

SEC. 209. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 210. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private post-secondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to subparagraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such subparagraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 211. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Emergency School Aid Act;

(D) under the Higher Education Act of 1965;

(E) under the Education Amendments of 1978;

(F) under the Act of August 30, 1890 (7 U.S.C. 321-328);

(G) under the Environmental Education Act;

(H) under the National Defense Education Act of 1958;

(I) under the Education of the Handicapped Act;

(J) under part B of title V of the Economic Opportunity Act of 1964;

(K) under subparts I and II of part C of title VII, and part B of title VIII of the Public Health Service Act;

(L) under the National Commission on Libraries and Information Science Act;

(M) under the Vocational Education Act of 1963;

(N) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(O) under the Model Secondary School for the Deaf Act;

(P) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(Q) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(R) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education related to functions transferred

by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

(5) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(6) the Advisory Council on Education Statistics and all functions vested in such Council; and

(7) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsection (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4½ percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 207 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of sponsors of students enrolled in overseas dependents' schools and of professional employee organizations and administrators of such schools.

TRANSFER FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary all programs relating to science education of the National Science Foundation or its Director established prior to the effective date of this Act pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except such programs, as determined by the Director of the Office of Management and Budget (after consultation with the Director of the Office of Science and Technology Policy), that relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value and science policy issues, or (3) communicating information to practitioners of science and technology and to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission-oriented research functions or programs of the National Science Foundation or of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or its Director under section 3(a)(1) of the National Science Foundation Act of 1950 to initiate and conduct programs not established prior to the effective date of this Act.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) Notwithstanding the second sentence of section 5108(a) of title 5 of the United States Code, the Secretary may place at grade levels GS-16, GS-17, and GS-18 a number of positions in such grades equal to the number assigned and employed on the day preceding the effective date of this Act in connection with functions and offices transferred under this Act.

(2) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 206 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions and offices transferred under this Act.

(3) Appointments under this subsection may be made without regard to the provisions of sections 3104 and 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with a transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) Except as provided in subsection (c), the authority of the Secretary under this subsection to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5 of the United States Code shall cease with respect to any position when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by section 206 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position.

(e) Notwithstanding the transfer of functions affected by section 303 of this Act (and the consequent transfer of personnel), personnel performing such functions shall have commissary and post exchange privileges in facilities of the Armed Forces.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or

office vested by this Act in any organizational unit or component.

RULES

SEC. 424. The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions and offices vested in the Secretary or the Department in accordance with chapter 5 of title 5 of the United States Code.

CONTRACTS

SEC. 425. Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

Sec. 435. The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions.

AUTHORIZATION OF APPROPRIATIONS

Sec. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

Sec. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

Sec. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

Sec. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel [illegible] to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less

than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect;

shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this

Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) Section 5108(a) of title 5 of the United States Code is amended by striking out "10,777" and inserting in lieu thereof "10,838".

(d) The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by 14.

(e) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(f) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(g) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(h) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (5).".

(i) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(j) The Comprehensive Employment and Training Act of 1973 is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" the first place it appears and inserting in lieu thereof ", the Secretary of Education and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof

"Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out ", Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(k) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", Department of Health and Human Services,".

(l) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection (a)(1), by inserting "and officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Organization Act," after "Assistant Secretary";

(2) by striking out "Chairman" in such subsection and inserting in lieu thereof "Co-chairmen";

(3) in subsection (a)(2), by inserting after "Secretary," the following: "and the principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Organization Act,";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education,"; and

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education," and renumbering paragraphs (2), (3), and (4) of subsection (c) as paragraphs (3), (4), and (5), respectively.

(m) Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and

Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

Sec. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

Sec. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

96TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
No. 96–143

DEPARTMENT OF EDUCATION ORGANIZATION ACT

MAY 14, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations, submitted the following

REPORT

together with

SEPARATE, ADDITIONAL, SUPPLEMENTARY, AND DISSENTING VIEWS

[To accompany H.R. 2444]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Operations, to whom was referred the bill (H.R. 2444) to establish a Department of Education, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

SUMMARY AND PURPOSE

H.R. 2444 establishes in the executive branch a Cabinet-level Department of Education. The Department will be headed by a Secretary of Education and will enable the Federal Government to coordinate its education-related activities more effectively and give to education the high-level status and attention it deserves. Federal support for education has grown significantly in recent decades and the activities now being carried out on the Federal level are of such magnitude that they merit consolidation in a separate executive department.

This bill only consolidates existing programs in the new Department: No new programs are created or authorized by this legislation.

President Carter, in a message to Congress, said "a separate cabinet level department will enable the Federal Government to be a true partner with state, local and private education institutions in sustaining and improving the quality of our education system". He also said "A Department of Education will bring our Nation's educational challenges and the Federal Government's role in meeting them to the forefront of domestic policy discussion. Such discussion is vital to an activity that directly affects 60 million students, teachers and educational employees and constitutes a $120 billion public and private enterprise".

A new Department of Education will have these additional advantages:

It will create, for the first time a Cabinet-level advocate for education with direct access to the President, the Congress and the public.

It will give Federal education programs the full-time, high-level leadership and management that they cannot receive in a structure so large and complex as the Department of Health, Education, and Welfare. This will allow the Federal government to fulfill its responsibilities in education more effectively. It will eliminate duplication in the administration and staff support activities within the Office of the HEW Secretary and the Education Division. It will allow improved financial management and more efficient administration of education programs.

The creation of a new Department will not result in more bureaucracy and greater cost. The Office of Management and Budget estimates that 350 to 450 positions will be eliminated by ending the duplication and fragmentation inherent in the present structure. The savings of $15 million to $19 million that will result will more than offset the estimated $10 million costs of transition. In the long run, OMB foresees potential savings of more than $100 million through improved financial management and audit systems geared specifically to education and through consolidation of the administrative functions of many programs.

These administrative improvements will also offer real benefits to states, localities, schools and students through better service and a lessening of red tape. However, the firm national tradition of state and local control over education will not be impaired in any way by this reorganization. There is express provision in the legislation prohibiting the Secretary of Education or any officer of the Department from exercising any direction, supervision or control over local education programs. The Federal role in education is limited and specific. It is to promote equal educational opportunities for all Americans, to enforce the civil rights laws, to increase access to college education, to support vocational and career training, and to support educational research and innovation. These are policies that have been determined by Congress and can only be changed by Congress.

With a separate Department of Education, one cabinet member will report directly to the President and be accountable to the Congress and the American people for the conduct of Federal education policies.

The Department will be organized according to the major functions it will carry out and contain offices dealing with elementary and secondary education, postsecondary education, special education and vocational rehabilitation services, research and improvement, and education of overseas dependents. There will also be an Office of Civil Rights and an Inspector General.

There will be transferred into the new department virtually all of the educational programs and activities now in the Department of Health, Education, and Welfare, along with vocational rehabilitation programs for the handicapped and those functions of the Office of Civil Rights and Inspector General that pertain to education. Also to be transferred are the schools now operated by the Department of Defense for the education of overseas dependents of U.S. Government personnel; education programs and schools for Indians, Alaskan natives and Aleuts from the Department of the Interior; the college housing program from the Department of Housing and Urban Development; certain science education programs from the National Science Foundation; and certain law enforcement education and intern programs from the Department of Justice.

All these programs, along with their budget authorizations of nearly $14.5 billion annually and their personnel totalling more than 24,000, and now in existence.

The bill establishes an Intergovernmental Advisory Council on Education, composed of 20 members, from State and local officers and representatives of parents, students, civil rights and other public interest groups. The Council will conduct studies and make recommendations to the President for improving the intergovernmental system for developing and carrying out educational policies.

Since the creation of the Department of Health, Education, and Welfare in 1953 it has been the subject of criticism because of the difficulty of efficiently managing its numerous programs. There is not, however, a consensus on the basic causes of the problems in the department or what to do about them. Most seem to agree that HEW is too large and that the relationship of its programs to each other is more apparent than real. The creation of the new Department of Education will ease the administrative difficulties within HEW and the Department of Health and Welfare—though still a giant among executive agencies—will become more manageable.

The Department of Education will be a major unit of the executive branch in size, budget, and responsibility, ranking ninth among the cabinet-level departments. The committee believes that its creation will be a significant step in attacking one of our pressing national problems.

COMMITTEE ACTION AND VOTE

H.R. 2444 was introduced by Chairman Jack Brooks and 84 cosponsors. The Committee on Government Operations ordered the bill reported on May 2, 1979, by a vote of 20 ayes and 19 noes.

HEARINGS

Hearings on H.R. 2444 were held by the Subcommittee on Legislation and National Security on March 26, 27 and April 5, 1979, at which time representatives of the Administration and Members of Congress testified. Also heard were representatives of national organizations who presented the views of their bodies on the legislation. It should be noted that extensive hearings were held in 1978 on a predecessor bill which provided helpful information to the Subcommittee.

EXPLANATION OF AMENDMENT

Inasmuch as all after the enacting clause of H.R. 2444 was stricken and all language incorporated into one amendment, the contents of this report constitutes an explanation of the amendment.

SUPPORT FOR THE DEPARTMENT

Support for the legislation creating a new Department of Education has been widespread as indicated by the numerous co-sponsors of H.R. 2444 in the House of Representatives and the 83 national organizations listed below:

ORGANIZATIONS SUPPORTING DEPARTMENT OF EDUCATION

American Alliance for Health, Physical Education and Recreation
American Association of Colleges of Teacher Education
American Association of Community and Junior Colleges
American Association of School Administrators
American Association of University Professors
American Association of Workers for the Blind
American Coalition of Citizens with Disabilities
American Educational Research Association
American Federation of Government Employees
American Federation of State, County, and Municipal Employees
American Library Association
American Personnel and Guidance Association
American for Democratic Action
American for Indian Opportunity
American Society for Public Administration
American Theatre Association
American Vocational Association
Association for Supervision and Curriculum Development
Association of Childhood Education International
Association of Community College Trustees
Coalition of American Public Employees
Coalition of Independent College and University Students
Council for Advancement and Support of Education
Council for Educational Development and Research
Council for Exceptional Children
Council of Chief State School Officers
Council of Great City Schools
Council of State Administrators of Vocational Rehabilitation
Education Commission of the States
Home Economics Education Association
International Council of Fine Arts Deans
International Reading Association
Mexican-American Legal Defense and Education Fund
Music Educators National Conference
National Academy of Education
National Advisory Council on Extension and Continuing Education
National Alliance of Black School Educators
National Art Education Association

National Association for Equal Opportunity in Higher Education
National Association of Administrators of State and Federal Education Programs
National Association of the Deaf
National Association of Elementary School Principals
National Association of Mexican-American Women
National Association of School Psychologist
National Association of Schools of Art
National Association of Schools of Music
National Association of Secondary School Principals
National Association of State Boards of Education
National Association of State Directors of Migrant Education
National Association of State Directors of Special Education
National Association of State Directors of Vocational Education
National Audio-Visual Association
National Caucus of Black School Board Members
National Committee for Citizens in Education
National Congress of Parent and Teachers
National Council for the Social Studies
National Council of La Raza
National Council of State Agencies for the Blind
National Council of Teachers of English
National Council of Teachers of Mathematics
National Education Association
National Federation of the Blind
National Governors' Association
National Grange
National Guild Community Schools of the Arts
National Rehabilitation Association
National School Boards Association
National School Public Relations Association
National School Supply and Equipment Association
National School Volunteer Program
National Society for Autistic Children
National Student Educational Fund
National University Extension Association
National Urban League
Overseas Education Association
People United to Save Humanity (Operation PUSH)
Research for Better Schools
Speech Communication Association
State Higher Education Executive Officers
Student National Education Association
United States Student Association
U.S. Catholic Conference Secretariat for the Spanish Speaking
Young Audiences, Inc.

STRUCTURE AND SIZE OF THE DEPARTMENT

The Department of Education, as set forth in H.R. 2444, contains an organizational structure designed to give the Secretary reasonable flexibility in management and allowing personnel and functional changes to be made as they are needed.

The Secretary will be the head of the department and a member of the President's cabinet. There will be an Under Secretary who will serve as Secretary in his absence, be responsible for intergovernmental relations and perform such other functions as the Secretary may prescribe. There will be in the Department six Assistant Secretaries and five other principal officers all of whom will report directly to the Secretary. The Assistant Secretaries and other principal officers will conduct functions as indicated by this legislation or as assigned by the Secretary in the areas of congressional relations; public information; management and budget; planning, evaluation and policy development, among other functions. As noted elsewhere in the report, the major programs of the department will be administered by Assistant Secretaries or principal officers, giving these important functions equivalent standing and direct access to the Secretary.

All of the above described officers will be appointed by the President with the advice and consent of the Senate and when the name of an officer is submitted to the Senate the President will designate the functions the official will carry out. The Secretary may, however, from time to time, reallocate functions among subordinates and rename the offices they hold.

The offices specifically established by the bill are: the Office for Civil Rights; the Office of Postsecondary Education; the Office of Elementary and Secondary Education; the Office of Special Education and Rehabilitation Services; the Assistant Secretary for Vocational and Adult Education; and the Office of Educational Research and Improvement. There will also be a General Counsel to provide legal services and an Inspector General to guard against fraud and abuse and to audit programs and expenditures.

The new department will have budget expenditures of approximately $14.5 billion dollars and 24,293 employees, making it larger than five other departments in the Executive Branch—Energy, Interior, Commerce, Justice, and State. The funding for the department has already been provided for by existing legislation and the only new expenditures produced by this bill will be those required for setting up the department (see CBO estimate).

The table that follows showing present annual expenditures and personnel of the programs being transferred indicates the scope of the responsibility encompassed by the new department:

Programs	Budget[1] (thousands)	Personnel[2]
Education program from HEW[3]	$12,581,404	4,168
Rehabilitation programs from HEW	872,500	445
Special institutions from HEW	178,757	1
Activities of the Office of Civil Rights from HEW	69,427	1,772
HEW overhead	39,150	900
Nursing student loans and scholarships, health direct loans from HEW	41,500	40
Overseas dependent schools from DOD	346,000	10,864
LEAA student assistance from Justice	25,250	8
College housing from HUD	4	3
Education programs from NSF	58,700	90
Migrant education programs from Labor	6,500	2
Indian education programs from Interior	264,400	6,000
Total	14,483,588	24,293

[1] Fiscal year 1979 budget authority.

[2] Fiscal year 1980 FTP estimates.

[3] Includes telecommunications demonstrations program from HEW.

[4] No appropriation.

Transfer of Programs From the Department of Health, Education, and Welfare

Education

The traditional educational functions of the Department of Health, Education, and Welfare are administered by its Office of Education and will be carried out by the new Department of Education. These include a variety of grant programs to State education agencies and local school districts; impact aid in areas affected by Federal activities, financial and technical assistance to school districts to meet special needs incident to the elimination of racial and other forms of discrimination and inequality; and assistance for construction of library facilities, among others. The department also administers support and assistance programs directed to higher education. It provides grants to improve instruction in crucial academic subjects, grants and loans to help students attend institutions of higher learning, and a fund to encourage a broad range of improvements and innovations on the secondary education level.

Also transferred will be the National Institute of Education in HEW which provides leadership in the conduct and support of scientific inquiry into the educational process. These programs will form the core of the new department.

Vocational Rehabilitation

A committee amendment to the bill transfers vocational rehabilitation and related programs from HEW to the Department of Education. These programs include the basic Vocational Rehabilitation States grant program, and the innovation and expansion, research, training and Randolph-Sheppard programs administered by the Rehabilitation Services Administration. The Office for Handicapped Individuals is also transferred under these provisions. Specifically excluded from transfer, however, are programs authorized under the Social Security Act that support rehabilitation services for blind and disabled persons.

The bill creates an Office of Special Education and Rehabilitation Services in the Department and requires that the head of this office report directly to the Secretary and be one of the Department's principal officers.

The committee's intention is to bring together in one major subcabinet entity, headed by a Presidential appointee, HEW's education programs designed to assist handicapped individuals. This is accomplished by establishing an office with responsibility for the education for handicapped children and vocation rehabilitation and related programs. This transfer will provide for coordination of these programs and will also establish a high-level focal point within the Federal Government to represent the needs of the handicapped and to formulate a coherent national policy on the handicapped.

While the Committee respects the need for the Secretary to have flexibility in organizing the new Department, it expects that the organizational structure under the new Assistant Secretary for special education and rehabilitation services will reflect and keep distinct current organization and activities of the Rehabilitation Services Administration and the Bureau of Education for the Handicapped, since both these agencies serve distinct functions and have been established by law. The Secretary will be expected, however, to provide the necessary coordination.

While the Committee believes this arrangement will provide benefits to the Federal Government, it does not intend either implicitly or explicity to impose a similar administrative arrangement at the state level. Moreover, placing vocational rehabilitation under the same Department which will handle the two other major Federal programs serving the handicapped—education for all handicapped children and vocational education of handicapped persons—will enhance the opportunity for cooperative arrangement for the delivery of services at the state and local level.

Education agencies are concerned with the overall life adjustment of handicapped young persons within their communities, including their ability to become employed. Vocational rehabilitation agencies are concerned with enabling handicapped individuals—particularly the severely disabled—to prepare for and engage in employment. These concerns are clearly compatible and every effort should be made to coordinate existing services.

Student loans

Centralizing of health professions loans, guaranteed loans, nursing loans, national direct student loans, and law enforcement education program loans in the new Department should provide the Secretary the authority for: (1) simplifying loan eligibility procedures; (2) reducing paperwork burdens on students and their families, as well as on college and university administrators; (3) improving substantially Federal collection, debt deferral and forgiveness activities by reducing multiple billing agencies; and (4) reassessing the present mix of allocation formulas and institutional application processes to provide improved integrity, clarity and equity for all need-based student assistance. With the addition of the nursing grant program to the new Department, all need-tested student financial assistance programs will reside in a single agency.

Telecommunications

Included in the transfers from HEW will be the nonbroadcasting telecommunications demonstration program. This program was created in 1976 to promote the development of nonbroadcasting telecommunications facilities. Its purpose is to encourage innovation in the use and adaption of a variety of technologies for the transmission, distribution and delivery of health, education, or public or social service information.

The Department of Education is expected to play a lead role in developing and adopting newer telecommunications systems applicable to education and in coordinating efforts of Federal agencies which may also be engaged in developing technologies that relate to education.

Transfer of the telecommunications demonstration program will assist in broadening its educational and informational delivery systems beyond those of formal schools and colleges.

Transfers From the Labor Department

H.R. 2444 transfers to the Department of Education certain educational programs operated and funded by the Department of Labor under the authority of Section 303(c)(2) of the Comprehensive Employment and Training Act. These programs, known as the High School Equivalency Program (HEP) and the College Assistant Migrant Program (CAMP) increase employment opportunities for migrant and seasonal farm worker youth through increased educational opportunity and support. It is expected that these programs will be operated in conjunction and coordination with migrant education programs authorized by the Elementary and Secondary Education Act.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

Certain science education programs are being transferred from the National Science Foundation to the Department of Education to provide the new department with a strong science component.

The committee made more specific the NSF programs to be transferred. They are: (1) pre-college level science education; (2) science education designed especially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public interest groups; and ethics and values issues.

The bill requires close consultation between the Secretary of Education and the Director of the National Science Foundation in the conduct of the transferred programs.

TRANSFERS FROM THE DEPARTMENT OF INTERIOR

Indian education programs

The bill was amended to transfer the Indian education programs and those of other native Americans from the Interior Department's Bureau of Indian Affairs to the Department of Education. This includes the operations of the BIA schools which serve more than 50,000 Indian children; the Johnson-O'Malley program which supports the education of about 182,000 Indian children in public schools, and the continuing education programs, which include student assistance, adult education, and junior college support. The Bureau of Indian Affairs and the Office of Education in HEW each spend over $250 million per year for the education of Indian children. The transfers would combine these efforts and place all Indian education programs in the new department and would encourage the development of comprehensive and consistent policies. The educational experience of these students should be significantly improved.

The Administration and this committee recognize the special relationships that exist between the Federal Government and Indian tribes. These realtionships will in no way be impaired by this transfer. Last year the President issued a statement which should be fully reassuring to all with concerns about any change of policy. The full text of that statement follows:

THE WHITE HOUSE,
Washington, D.C., July 19, 1978.

Under my proposal for a Cabinet Department of Education, the Indian education programs now located in the Bureau of Indian Affairs (BIA) would be moved to the new Department. I have recommended this transfer because I believe it will make Federal school-based programs more effective.

This transfer will not change the special relationships between the government and Indian tribes and Indian people in any way. These relationships include Federal trust responsibilities, Indian self-determination, and Indian preference in hiring. My goal is to improve the delivery of education services to Indians while maintaining these special relationships.

It is especially important that we maintain educational services to Indians without interruption, protect their civil rights, preserve the integrity of the education programs, and strengthen participation of parents, tribes, and Indian people in the education of their youth. A clear recognition of the importance of these issues will help us achieve an orderly, phased transfer of the BIA programs to the new department, while protecting the interests of Indian people. I expect and hope that Indian tribes and Indian people will work with my Reorganization Project staff to assure that these objectives are met.

Throughout the Nation, our educational systems are facing important challenges. For the first time, the new department will permit a coordinated and high-level response to these challenges. I ask Indian tribes and Indian people to join with us in shaping a new Department of Education that is responsive to their concerns and worthy of their support.

JIMMY CARTER.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

Overseas dependents' schools

The Department of Defense Overseas Dependents' Schools were created administratively in 1946 to provide elementary and secondary education for children of military personnel stationed outside the continental United States and Puerto Rico. There are currently 267 such schools in operation with 135,000 students. The schools are most heavily concentrated in the European area, which extends as far as the Persian Gulf. About 77 percent of the students are located in this area, with 20 percent in the Pacific, and only 3 percent in the Atlantic. The system has 9,200 employees, and will spend about $350 million in fiscal year 1979.

The schools are only tangentially related to the Defense Department's mission, and they must compete within a tight defense budget with weapons, logistical systems, and other items central to the Department's mission. The transfer of the schools to the Department of Education will offer opportunities for increasing the quality of education for their students. It would also offer opportunities for access and improvements in education for handicapped children, gifted and talented students, and those who may benefit from compensatory education and for improvement of vocational education in the overseas schools.

The Department of Defense also operates 19 schools in the continental United States and in Puerto Rico which are funded through USOE's impact aid program. These schools will educate about 34,000 students in fiscal year 1979 at a cost of $58 million. The authority for these schools will transfer to the Department of Education with the impact aid program. The committee believes that the Secretary of Education should be given sufficient flexibility to administer these schools in an effective and efficient manner.

The committee recognizes that the overseas schools rely on a network of support services provided by the Department of Defense. The Committee believes that the Secretary can negotiate appropriate interdepartmental support agreements and has provided the Secretary of Education three years in which to phase in this transfer. The system of interservice support agreements should continue during this transition. The teachers and other overseas personnel who are transferred will be given access to services and facilities provided by the Defense Department as if they were Defense employees.

The bill makes clear that the new department may not operate overseas institutions of higher education.

TRANSFER FROM THE DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Two programs administered by the Law Enforcement Assistance Administration (LEAA) will be transferred to the Department of Education. The Law Enforcement Education Program provides for loans and grants to professional criminal justice personnel through higher education institutions. An accredited institution submits an annual application to the LEAA, which then awards project grants to the institutions, 1,025 in fiscal year 1977. The institutions then make grants and loans to eligible students. Grants are made to in-service employees of a public law enforcement agency, usually police officers who take courses on a part-time basis. The other program, the Law Enforcement Internship Program is a work-study summer experience for undergraduates to gain practical experience in criminal justice.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

College housing program

Title IV of the Housing Act of 1950 authorizes loans to colleges and universities (and to certain other eligible institutions) at 3 percent interest for the construction or acquisition of housing and related facilities for students and faculty. The college housing program has offered two types of assistance: direct Federal loans and debt service grants to support private market loans. The grant portion of the program was terminated in 1974 when Congress rescinded unused debt service grant funds. At present, instead of awarding grants, HUD is conducting a limited direct loan program using the repayments of previous loans to provide annual funds. The HUD budget submission for fiscal year 1979 recommends the transfer of the assets and liabilities of the college housing loan fund to a revolving fund for program termination in 1979 and no further appropriations have been requested.

Office for Civil Rights

The bill specifies that an Office for Civil Rights shall be established in the new Department and it shall be directed by one of the principal officers of the Department. The Office shall carry out the compliance and enforcement functions relating to education which were delegated to the Office for Civil Rights in the Department of Health, Education and Welfare by the Secretary of HEW during its tenure in that Department.

The committee recognizes that the Office for Civil Rights has a critical function which enables the Department to fulfill one of its major purposes: to continue and strengthen the Federal commitment to ensuring equal access to equal educational opportunity for all individuals. These activities include implementation of enforcement programs pursuant to Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race and national origin); Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of sex); and section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of handicap).

Progress in civil rights enforcement since the passage of the Civil Rights Act of 1964 has led to substantial improvements in the educational opportunities of children previously subject to discrimination, but discriminatory practices continue in many educational activities and institutions and much remains to be done.

James T. McIntyre, Director of the Office of Management and Budget, expressed the administration's "commitment to enforce vigorously the civil rights laws and regulations, which are the centerpiece of the Federal role in education." Recognition of OCR's importance is reflected in the elevation in stature of the Director from GS-18 to an executive level IV. Consistent with the great responsibility vested in OCR and the increased status of its Director, the committee concluded that certain management and structural provisions should be incorporated in the enabling legislation which establishes the Department.

The committee agreed that the following provisions are necessary to secure the operational integrity of OCR which is fundamental to the fulfillment of its Congressionally mandated responsibilities:

The Director of OCR is to be assigned the authority by the Secretary of Education for enforcing all civil rights laws in all programs administered by the Department.

The Director of OCR is required to prepare and transmit an independent report directly to the Secretary and the Congress summarizing OCR's compliance and enforcement activities of the previous year and identifying significant civil rights or noncompliance problems. The Director is expected to provide the report to the Secretary in advance of the due date for submission to Congress. The Secretary may append comments separately to the report, but may not alter the report as drafted by the Director. Because reliable and current data are essential to effective enforcement, the Director of the OCR shall have the authority to collect or coordinate collection of data necessary to ensure compliance with civil rights laws.

It is understood that OCR must continually review its data requests in the interest of limiting unnecessary paperwork. Consequently, OCR should coordinate its information requests with other agencies in and out of the Department to see if modifications of non-OCR data collection systems could prove a more effective and less burdensome means of meeting the necessary enforcement data requirements.

The committee recognizes that OCR is fundamentally a law enforcement agency and as such must have the authority to select, appoint and employ such officers and employees, including adequate staff attorneys and consultants, as may be necessary to carry out functions, powers and duties of the office. The bill gives the Director of OCR the authority to obtain services in conformance with 5 U.S.C. 3109.

In addition to the preceding provisions which the committee has adopted, the committee further intends that OCR should have the capacity for analysis as well as the ability to acquire short-term expertise to ensure continued efficiency of operation. The Director is therefore authorized to enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions.

It is the committee's intention that no other provisions in H.R. 2444 shall be considered to interfere with OCR's ability to enforce the Civil Rights Act, or any other nondiscrimination provision of Federal law, or to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to ensure the complete and uniform enforcement of these acts among the recipients of the Department's programs.

Indian tribes have a unique relationship to civil rights laws, and members of those tribes enjoy a special status. The special government-to-Government relationship between the Federal Government and the tribes exempts Indians and Indian tribes from certain civil rights restrictions. Indian preference in personnel actions, for example, is based on this special relationship. At the same time, Indians as citizens are entitled to the protection of the civil rights statutes. This special dual status requires a special expertise and the Secretary may want to consider a special arrangement for Indian education in the new Department's Office for Civil Rights.

The committee expects the Office of Management and Budget to exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

Intergovernmental Advisory Council on Education

The bill establishes an Intergovernmental Advisory Council on Education to assist the Department of Education with developing and carrying out educational policies within the intergovernment system. This advisory committee is designed to increase public participation in the affairs of the Department. The Council will be composed of 20 members, appointed by the President from citizens with backgrounds as State and local officials, parents, students, public representatives, and educators from the preschool through post-secondary levels. In making appointments to the Council, the President is directed to select individuals who represent a diversity of geographic areas and demographic characteristics, which the Committee hopes will lead to the appointment of members from rural areas.

To the greatest extent practicable, the Committee hopes the Council will be composed of individuals most closely related to education either as participants, governmental officials, or persons with vital interests in seeing that Federal laws relating to education are adequately enforced.

The Council should provide benefits to the Department by improving coordination between the education policies of the Federal Government and the States and local governments. This has been an area of much confusion and waste in the past with conflicting guidelines and requirements being promulgated at the Federal and State levels.

This body should work diligently to eliminate such problems by providing effective coordination at all three levels. Effective intergovernmental coordination provided by this Council should be one of the very real benefits provided by the Organization of the Department of Education.

Federal control

One of the most persistent fears expressed about setting up a separate Department of Education during hearings by the Legislation and National Security Subcommittee was that creation of such a department would lead to Federal control of education. H.R. 2444, section 103, contains a clear prohibitive on Federal interference in matters which have been traditionally left to be decided at the State, local, or institutional level. These locally decided matters include the curriculum, program of instruction, administration, personnel selection, selection of library resources, textbooks and other educational materials.

The transfer of the operation of the Department of Defense Overseas Dependent Schools program into the Department of Education is not to be taken as new authority to extend Federal control to local education. The Overseas Dependent School System has always been federally controlled and the transfer of this system into the Department of Education does not change that.

Rules

The bill authorizes the Secretary of Education to prescribe such rules and regulations as he may deem necessary to administer the functions of the department. The committee determined, however, that the rules should be in accordance with the Administrative Procedures Act (chapter 5 of title 5, U.S. Code) and that section 431 of the General Education Provisions Act, 20 U.S.C. 1232, (which sets forth procedures to be followed in issuing rules under that act) will apply to the extent applicable immediately prior to the effective date of this legislation. These procedures have been extended to other programs transferred into the department.

H.R. 2444 also requires a detailed statement describing the economic impact of a proposed rule including its cost impact on governments, its effect on productivity, its effect on improvement of education, and its cost of implementation among other requirements.

The committee does not intend, however, that this provision apply to the initial regulations to be issued upon the creation of the department. The impact statements requirement is applicable to subsequent regulations.

Personnel protection and limitations

The bill gives to the Secretary the usual powers to employ personnel as necessary to carry out the functions of the new department. Those presently employed in the programs to be transferred will be transferred with those programs for appropriate allocation by the Secretary. The bill states that those transferred personnel holding permanent positions in these programs will not be separated or reduced in grade or compensation for one year after the transfer.

Amendments were incorporated at the suggestion of the Post Office and Civil Service Committee to bring the personnel provisions in line with the Civil Service Reform Act and to require that all supergrades made available to the Department will be on the basis of a request by the Secretary to the Director of the Office of Personnel Management and come from the government-wide pool.

In order to limit the growth of personnel in the new department, a further amendment was adopted requiring that by the end of the first year after the effective date of the act the number of full-time permanent positions transferred shall be reduced by 450 and that thereafter the number of such positions shall not be increased by more than 50 in any one year without statutory authorization. This limitation, however, will not apply to personnel in overseas schools.

Alternative administrative structures waiver

The bill has a provision giving discretionary authority to the Secretary to waive federally mandated organizational requirements under certain conditions. This provision will assure that State and local education authorities do not lose control over the determination of their own organizational structures. The transfer of the Vocational Rehabilitation program to the Department of Education brings to the new Department a Federal program with narrow State and local organizational constraints. Without the waiver provision in the committee bill, a State or local education authority may not combine the Vocational Education and the Vocational Rehabilitation programs, even though both programs may provide the same services to the same people.

To protect the Federal program goals, the waiver of Federal organizational constraints can only be made after a State or local authority demonstrates that the Federal constraints prevent the establishment of the most effective and efficient organizational structure. The Secretary must also determine that the proposed State or local administrative arrangement does not endanger the objectives of the Federal statute authorizing the program.

The waiver provision in the Committee Bill clarifies a recent issue that has arisen with regard to the Intergovernmental Cooperation Act of 1968 (Public Law 90–577). This Act provides for a waiver of the Federal "single State-agency" organizational requirement. Recent litigation by several States has determined that the Intergovernmental Cooperation Act waiver does not apply to the "single organizational unit" requirement found in the Vocational Rehabilitation Program. This requirement mandates a single State organizational unit with a full time director with authority to hire and fire all personnel in the unit. Without authority for a waiver, this program cannot be consolidated with similar programs under a single administrative authority, even if all of the services are provided more efficiently and effectively. With the present public concern about poor management of government agencies, it is important not to put Federal constraints on attempts by State and local government to improve the management of their programs.

The waiver authority in the bill will assure that State and local education authorities can propose the organizational structure they determine to be the most effective and efficient for their programs. Without this waiver State and local education agencies' hands are tied. Consolidated authority over the Vocational Rehabilitation and

Vocational Education programs would be precluded even though a local education authority demonstrated that consolidated administration would provide more education services to more people.

INFLATIONARY IMPACT

In compliance with clause 2(1)(4) of House Rule XI., it is the opinion of this committee that the provisions of this bill will have no inflationary impact no prices and costs in the operation of the national economy.

OVERSIGHT FINDINGS

The committee has maintained continuous oversight of the agencies affected by this legislation, but has made no detailed findings and recommendations other than those contained elsewhere in this report.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate prepared by the Congressional Budget Office under Section 308(a) and 403 of the Congressional Budget Act of 1974 is contained in the following letter from its Director:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 7, 1979.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 2444, the Department of Education Organization Act.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 7, 1979.

1. Bill number: H.R. 2444.
2. Bill title: Department of Education Organization Act.
3. Bill status: Ordered reported from the House Committee on Government Operations, May 2, 1979.
4. Bill purpose: To establish a Department of Education.
5. Cost estimate:

[By fiscal years; in thousands of dollars]

	1980	1981	1982	1983	1984
Function 500 costs	5,319	7,537	10,021	9,151	9,602
Function 920 costs (Federal pay raises)		131	206	315	331
Total cost	5,319	7,668	10,227	9,466	9,933

The costs of this bill fall within budget functions 500 and 920.

6. Basis for estimate: The costs of this bill include the one time costs associated with the establishment of the new Department of Education as well as the salaries for additional employees authorized by this legislation. It is not known at this time whether these costs would be absorbed by existing funds or whether they would require new funds. For the purpose of estimating costs, it is assumed that the legislation will become effective at the beginning of fiscal year 1980. According to the Administration, the reorganization will take place over three years.

H.R. 2444 authorizes a net increase of 14 executive level positions and 42 supergrade positions (GS–16 to GS–18) to the current total, as well as an unspecified number of overhead and support staff. The Administration estimates 100 positions for overhead and support staff. Given the Administration's three year startup timetable, CBO assumes 50 percent of the positions will be filled the first year, 75 percent the second, and 100 percent the third. CBO also assumes the 15 transitional employees provided by the legislation will work for three years.

Total staff costs for fiscal years 1980–1984 were calculated by multiplying the number of positions each year by the cost per position estimated by the Administration. Cost per position was adjusted for anticipated federal payraises except for salary levels which are currently frozen.

Costs for the Intergovernmental Advisory Council on Education are based on an assumption of two meetings per year, and include compensation, travel, and expenses for each of the 21 members.

The one time general costs for the reorganization, which include moving costs, are estimated by the Administration to be $0.5 million in each of the first three years.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 3, 1979 CBO prepared a revised estimate on S. 210. The Senate bill authorized a net of 11 new positions and a 25 member advisory council.

9. Estimate prepared by: Clifford Mozes (225–7766) and Deborah Kalcevic (225–7766).

10. Estimate approved by:

C. G. Nuckols

(For James L. Blum, Assistant Director for Budget Analysis.)

COMMITTEE ESTIMATE OF COST

The committee agrees with the estimate contained in the submission of the Congressional Budget Office above and presents that estimate as the committee's pursuant to the requirements of clause 7 of House rule XIII.

However, the committee calls attention to the Office of Management and Budget's estimate that the elimination of duplication and fragmentation in the Federal education effort can be expected to produce savings of between $14 million and $19 million, with long range savings of $100 million through administrative improvements.

In addition, the committee has mandated that by the end of its first year of operation the Department shall reduce the total number of personnel transferred to it by 450, and has insisted that the government-wide ceiling for supergrade positions shall not be breached by the new positions created for the Department.

The committee believes that these provisions will more than offset the costs estimated by the Congressional Budget Office.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 entitles the Act the "Department of Education Organization Act" and contains the Table of Contents of the Act.

SECTION 2

Section 2 contains definitions of the terms "Department," "Secretary," "Under Secretary," "function," "State," "private," "private educational," "office," and "unit."

TITLE I—FINDINGS AND PURPOSES

SECTION 101—FINDINGS

Section 101 sets forth the findings of Congress: (1) education is fundamental to the development of individuals and progress of the Nation: (2) equal access to high quality education for all must be ensured; (3) the primary responsibility for education rests with States, localities and private institutions; (4) the American people benefit from a variety of educational settings; (5) the current structure of the executive branch does not allow sufficient Presidential and public consideration of education issues; (6) Federal education programs must be managed better to improve support of State, local and private institutions, students and parents in carrying out their educational responsibilities; (7) improved coordination between Federal education and related programs is needed; and (8) there is no single Federal education official accountable to the President, Congress and the public.

SECTION 102—PURPOSES

Section 102 states that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper attention at the Federal level and will help the Federal Government coordinate education activities more effectively. The major purposes of the Department of Education shall be (1) to ensure strengthened Federal commitment to equal educational opportunity; (2) to support States, localities, public and private institutions, and parents and students in fulfilling their educational responsibilities; (3) to promote improvements in the quality and usefulness of education; (4) to improve the management and efficiency of Federal education activities; (5) to increase accountability of Federal educational programs; (6) to encourage involvement of the public, parents and students in Federal education programs; and (7) to enable more effective coordination of Federal education activities.

SECTION 103—PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Section 103 provides that no law relating to a program administered by the Federal Government shall be construed to give the Secretary of Education or any other Federal officer or agency the authority to control, direct or supervise the curriculum, program content, selection of library resources or books, administration, personnel, or accreditation of any public or private educational institution, except to the extent specifically authorized by law.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SECTION 201—ESTABLISHMENT

Section 201 establishes the Department of Education in the executive branch headed by a Secretary of Education and an Under Secretary of Education, both appointed by the President with the advice and consent of the Senate. The section stipulates that the Under Secretary's responsibilities shall include intergovernmental relations.

SECTION 202—PRINCIPAL OFFICERS

Section 202 provides for six Assistant Secretaries and five officers, to be appointed by the President with the advice and consent of the Senate, who shall report directly to the Secretary. Subject to the provisions of the Act, the Secretary may delegate among these officers the functions vested in the Secretary and the Department, including congressional relations; public information; management and budget; planning, evaluation and policy development; encouraging and monitoring involvement of parents, students and the public in the programs of the Department; and providing information about education and related opportunities. When the President submits a name for one of the officers to the Senate for confirmation, the President shall also designate functions for which that officer shall be responsible, subject to the provisions of the Act. The Secretary may allocate or reallocate functions within the Department.

SECTION 203—OFFICE FOR CIVIL RIGHTS

Section 203 establishes an Office for Civil Rights to be administered by an Assistant Secretary for Civil Rights appointed under section 202(a). The Secretary is required to delegate to this Assistant Secretary all of the functions, other than administrative and support functions, of the current Office for Civil Rights in the Department of Health, Education, and Welfare which are transferred to the Department.

The Assistant Secretary shall make annual reports to the Congress, to which the Secretary's comments may be appended, but without clearance or approval, summarizing activities and identifying problems on which adequate progress has not been made. The Assistant Secretary also is authorized to collect data required to ensure compliance with civil rights laws; to hire and supervise employees, including attorneys and consultants, according to Civil Service requirements; and to contract out for services pursuant to compliance and enforcement functions.

SECTION 204—OFFICE OF POSTSECONDARY EDUCATION

Section 204 establishes an Office of Postsecondary Education, administered by an Assistant Secretary appointed under section 202(a). This Assistant Secretary shall administer such postsecondary education programs, for both public and private students and institutions, as the Secretary shall delegate.

SECTION 205—OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Section establishes an Office of Elementary and Secondary Education administered by an Assistant Secretary appointed under section 202(a). This Office shall administer such elementary education programs for public and private students and schools as the Secretary shall delegate to the Office.

SECTION 206—OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

Section 206 establishes an Office of Special Education and Rehabilitation Services. The Office is to be headed by an Assistant Secretary who will advise the Secretary and administer functions relating to these educational interests including the Rehabilitation Act of 1973.

SECTION 207—ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

Section 207 specifies that one of the Assistant Secretaries appointed under Section 202(a) shall be responsible for functions affecting vocational and adult education.

SECTION 208—OFFICE OF EDUCATION RESEARCH AND IMPROVEMENT

Section 208 provides for an Office of Educational Research and Improvement headed by an Assistant Secretary appointed under section 202(a). This Office shall administer such research, development, dissemination, demonstration and evaluation programs as the Secretary shall delegate to it.

SECTION 209—FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

Section 209 provides for an office to administer functions relating to the education of dependents of overseas military personnel, headed by an officer appointed under section 202.

SECTION 210—GENERAL COUNSEL

Section 210 provides for a General Counsel, appointed by the President by and with the advice and consent of the Senate.

SECTION 211—OFFICE OF INSPECTOR GENERAL

Section 211 adds the Department of Education to those departments in which an Office of Inspector General was created by the Inspector General Act of 1978.

SECTION 212—INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Section 212 provides for the establishment of an Intergovernmental Advisory Council on Education appointed by the President as follows: six elected State and local officials with general government responsibilities ; five representatives of public and private elementary and secondary education; five representatives of public and private postsecondary education; and four members of the public including parents and students. These appointments must be geographically and demographically diversified.

At least every two years, the Council shall submit a report to the Secretary and the President assessing the impact of Federal education activities on States and localities, and shall make recommendations for the improvement of intergovernmental relations in education.

The Council shall have an executive director, staff, services and support.

SECTION 213—INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

Section 213 establishes an Interdepartmental Education Coordinating Committee, to be appointed by the President and chaired by the Secretary. The Committee shall work to assure effective coordination of Federal education and related programs; encourage consistent policies; and reduce duplication in activities and data collection.

TITLE III—TRANSFERS

SECTION 301—TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Subsection 301(a)(1) transfers and vests in the Secretary all functions and offices vested in HEW's Assistant Secretary for Education or his office and all functions and offices of HEW's Education Division, composed of the Office of Education and the National Institute of Education.

Section 301(a)(2) transfers the functions and offices vested in the Secretary and Department of Health, Education, and Welfare under the following statutes:

A. The General Education Provisions Act;

B. The Elementary and Secondary Education Act of 1965;

C. The Higher Education Act of 1965, which includes separate authorization for community service and continuing education programs; college library assistance and library training for research; strengthening developing institutions; student assistance (Basic Educational Opportunity Grants, grants to States for state student incentives, special programs for students from disadvantaged backgrounds, veterans' cost-of-instruction to institutions and other grant and loan provisions); Teacher Corps and teacher training (including teacher centers, training of higher education personnel, fellowships for teachers, and vocational education full-time and part-time training programs); financial assistance for the improvement of undergraduate instruction; construction, and renovation of academic facilities; cooperative education;

graduate programs; establishment and expansion of community colleges; law school clinical experience programs; and general provisions;

D. The Education Amendments of 1978;

E. The Act of August 30, 1890 (the Second Morrill Act), which provides appropriations "to each State and Territory for the most complete endowment and maintenance of colleges for the benefit of agricultural and mechanic arts";

F. The National Defense Education Act of 1958, which provides authority for strengthening instruction in science, mathematics, modern foreign languages, and other critical subjects, permits loans to non-profit private schools, and provides support for guidance, counseling, and testing services;

G. The Education of the Handicapped Act;

H. Part B of Title V of the Economic Opportunity Act of 1964, which transfers the Follow Through program (not Head Start or Day Care programs);

I. Subparts I and II of Part C of title VII and Part B of title VIII of the Public Health Service Act (nursing loan and scholarship programs and the Health Professions Student Loan Pro-Program);

J. The National Commission on Libraries and Information Science Act (HEW is responsible for providing the Commission with necessary administration services);

K. The Vocational Education Act of 1963, which provides vocational education funds to States for expenditures under State plans and other discretionary and categoric aid programs (special programs for the disadvantaged; consumer and home making; innovation, research, and development projects; personnel development; bilingual vocational training; adult education and special studies);

L. Statutes relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

M. The Model Secondary School for the Deaf Act;

N. Telecommunications non-broadcast demonstration programs authorized by the Educational Broadcasting and Telecommunications Demonstration Act of 1976;

O. The section of the Federal Property and Administrative Services Act of 1949 which authorizes the Administrator of GSA to assign to the Secretary of HEW surplus real property for school, classroom, or other educational use, including research; and

P. The Alcohol and Drug Abuse Education Act, which authorizes grants or contracts to educational and community agencies to develop materials and support other educational activities to prevent drug abuse.

Section 301(a)(3) transfers all the functions of HEW's Office of Civil Rights relating to functions transferred by this section.

Section 301(a)(4)(A) transfers to the Department all functions of the Department and Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, but specifically excludes the sections of the Social Security Act relating to rehabilitation services for disabled individuals and rehabilitation for blind and disabled individuals.

Section 301(a)(4)(B) transfers the functions administered with respect to the Randolph-Sheppard vending facility program.

Section 301(a)(5) transfers education-related advisory committees and authority for advisory committees of the Department and Secretary of HEW, and gives the Secretary authority to terminate or combine such committees.

Section 301(a)(6) transfers HEW's Institute of Museum Services and the Institute's functions.

Section 301(a)(7) transfers the Advisory Council on Educational Statistics and the Advisory Council's functions.

Section 301(a)(8) transfers the Federal Education Data Acquisition Council and its functions.

Section 301(b) transfers all functions of HEW's Inspector General relating to functions transferred by the Act.

SECTION 302—TRANSFERS FROM THE DEPARTMENT OF LABOR

Section 302 transfers and vests in the Secretary those functions vested in the Secretary and Department of Labor by Section 303(c)(2) of the Comprehensive Employment and Training Act. This CETA section relates to the education of migrant and seasonal farm workers in higher education programs through the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP). The section also specifies a percentage of total migrant and seasonal farm workers assistance funds to be allocated to HEP and CAMP.

SECTION 303—TRANSFERS FROM THE DEPARTMENT OF DEFENSE

Section 303 transfers to and vests in the Secretary all functions vested in the Secretary of Department of Defense by the Defense Dependents' Education Act of 1978. The Secretary shall delegate these functions, other than administrative and support functions, to the office created by Section 209. The transfers shall occur at such time as the President designates, but not later than three years after the effective date of the Act.

The Secretary of Education, after consultation with the Secretary of Defense and representatives of parents, professional employees and administrators involved in overseas dependents' schools, shall transmit to Congress within one year after the effective date of the Act a plan for implementing the transfer of these functions to the Department of Education.

This section also specifies that the Act does not give the Secretary the right to operate overseas institutions of higher education.

SECTION 304—TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

Section 304 transfers NSF programs directed to pre-college level science education, minority group science education, specialized group science education programs, and ethnics and values issues. The Secretary is to conduct these programs in coordination with the Director of NSF and he is to include a description of this coordination in his annual report. The section specifies that NSF's ability to institute or conduct new programs is not limited by the Department of Education Act.

SECTION 305—TRANSFERS FROM THE DEPARTMENT OF JUSTICE

Section 305 transfers to and vests in the Secretary the Law Enforcement Education Program and the Law Enforcement Intern Program from the Department of Justice. These programs are authorized by the Omnibus Crime Control and Safe Streets Act of 1968.

SECTION 306—TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Section 306 transfers to and vests in the Secretary the College Housing Loan Program from the Department of Housing and Urban Development.

SECTION 307—TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

Section 307 transfers to and vests in the Secretary all functions of the Secretary and Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

Under Subsection (b), the transfers are effective at the same time as other provisions of the Act, except that the President may, over a three-year period, transfer functions relating to operation, construction, and maintenance of schools. Within one year, the Secretary is to transmit to Congress a transfer plan, prepared in consultation with affected tribes, Indian organizations and other groups.

SECTION 308—EFFECT OF TRANSFERS

Section 308 ensures that the transfer to the Secretary or the Department of a function or office from an officer or agency transfers any aspect of such function vested in a subordinate of such officer or a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

SECTION 401—OFFICERS AND EMPLOYEES

Section 401 contains the provisions of the bill concerning general employment and appointment authority, authority for employment of certain personnel transferred to the Department, authority for 15 limited term appointees in the Senior Executive Service, and authority for certain technical and professional personnel. The section conforms to the personnel procedures established in the Civil Service Reform Act of 1978.

Subsection (a) contains the general employment authority of the Secretary. Personnel employed under the authority will be hired and compensated in accordance with civil service laws.

Subsection (b)(1) authorizes the Director of the Office of Personnel Management to provide for the establishment of a number of GS–16, 17, and 18 positions equal to the number of such existing positions.

Under subsection (b)(2), the OPM Director also is authorized to provide for the establishment, in the Office of Educational Research and Improvement, of a number of scientific, professional, and technical positions, outside the General Schedule, equal to the number of such existing positions.

Subsection (b)(3) authorizes incumbents to be appointed to the above positions without the standard approval of qualifications by the Office of Personnel Management.

Subsection (b)(4) terminates the authority extended under Subsection (b) after the employee first appointed to each position leaves that position.

Subsection (b)(5) extends the "grandfather provision" of Section 404 (a)(3)(A) of the Civil Service Reform Act to the appointees to transferred positions.

Subsection (c) grants the Secretary the authority to appoint 112 technical and professional employees for the Office of Educational Research and Improvement. These positions are at rates of compensation less than a grade level 16 of the General Schedule. This authority will enable the Secretary to continue to fill such positions transferred by subsection (b)(2) from the Education Division of HEW and the National Science Foundation. Subsequent appointments to existing positions in excess of GS–16 shall be filled as provided by section 3104 of title 5 of the United States Code and thus are not included in the authority granted under subsection (c).

Subsection (d) instructs the Director of the Office of Personnel Management to establish for the Department 15 limited term appointees in the Senior Executive Service. These appointments will expire after three years and are within the limitation for limited term Senior Executives as well as the government-wide ceiling for supergrades. These positions are provided to the Department from the date the Act first becomes effective to enable the Secretary to quickly make the Department operational.

Subsection (e) treats overseas dependent school employees as Department of Defense civilians for the purpose of access to DOD facilities, and Subsection (f) treats them as DOD civilians for the purpose of status-of-forces agreements.

SECTION 402—EXPERTS AND CONSULTANTS

Section 402 authorizes the Secretary to contract for experts and consultants, at daily rates less than the rate payable to GS–18's.

SECTION 403—REDUCTION OF POSITIONS

Section 403 requires the total number of full-time positions in the Department of Education to be reduced by 450 by the end of the first fiscal year after the Act becomes effective. Thereafter, the number of personnel positions may not be increased by more than 50 in any year without statutory approval.

SECTION 404—EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION OF POSITIONS

Section 404 exempts DOD personnel from Section 403's personnel limitations and computations.

PART B—GENERAL PROVISIONS

SECTION 421—GENERAL AUTHORITY

Section 421 empowers the Secretary in carrying out a function or conducting an office transferred by the Act to utilize the authorities available by law (with respect to such function or office) to the official or agency from which the functions or office were transferred.

SECTION 422—DELEGATION

Section 422 permits the Secretary, unless otherwise expressly provided in the Act, to delegate any function or office to officers and employees of the Department, and to authorize successive redelegations thereof.

SECTION 423—REORGANIZATION

Section 423 permits the Secretary to change the structure of the Department so long as the Secretary does not abolish organizational units established by the Act or transfer functions or offices vested by the Act in a specific organizational unit.

SECTION 424—RULES

Subsection (a) of Section 424 authorizes the Secretary to issue rules and regulations. Subsection (b) specifies that such rules shall be issued in accordance with the Administrative Procedures Act. It also makes Section 431 of the General Education Provisions Act, authorizing Congress to disapprove of education-related regulations, applicable to the following portions of the Department of Education: Functions transferred from the Assistant Secretary for Education and the Office of Education; the functions of HEW enumerated in Section 301(a)(2); functions transferred from the Department of Labor; the overseas dependent school functions transferred from the Department of Defense; the science education programs transferred from NSF; functions transferred from the Department of Justice; functions transferred from the Department of Housing and Urban Development. The functions of the Department's Office of Civil Rights are not subject to the Congressional regulation disapproval procedure.

SECTION 425—CONTRACTS

Section 425 authorizes the Secretary to enter into and perform contracts and other agreements with public agencies and private organizations as may be necessary or appropriate to carry out the functions of the Department.

SECTION 426—REGIONAL AND FIELD OFFICES

Section 426 gives the Secretary the power to establish, maintain or reorganize field offices.

SECTION 427—ACQUISITION AND MAINTENANCE OF PROPERTY

Subsection (a) permits the Secretary to construct or acquire schools and related facilities (if the operation of them is otherwise authorized by the Act) and quarters and facilities for employees.

Subsection (b) permits the Secretary to contract for eating facilities and other facilities necessary for the health and welfare of departmental employees. Subsection (c) limits the authority conferred by subsection (a) to facilities of a special purpose nature that are not readily reassignable to other Federal activities and not otherwise available from the General Services Administration.

SECTION 428—FACILITIES AT REMOTE LOCATIONS

Subsection (a) authorizes the Secretary to provide and maintain, for employees at remote locations (such as areas overseas where dependents' schools are located or isolated areas in the United States without convenient access to services authorized in this section), (1) medical services and supplies, (2) food, (3) dining facilities, (4) audio-visual and other recreational equipment, (5) reimbursement for supplies provided by employees to victims of disasters, (6) living and working quarters, and (7) transportation for dependents of departmental employees to educational facilities.

Subsection (b) provides that the furnishing of medical treatment, food, dining facilities and audio-visual and recreational equipment shall be at prices reflecting reasonable value as determined by the Secretary.

Subsection (c) provides that receipts under this section may be credited to the appropriation that bears all or a part of such work or services.

SECTION 429—USE OF FACILITIES

Subsection (a) permits the Secretary to utilize, with their consent, the facilities of any Federal, State, or local agency, or any foreign government.

Subsection (b) permits the Secretary to lease Department real property acquired by the Secretary under sections 427 and 428 and to require lessees to recondition and maintain such property.

Subsection (c) provides that all receipts under this section may be credited to the appropriation that bears all or a part of the cost of such equipment or facilities.

Subsection (d) requires that any interest in real property acquired by the Secretary shall be acquired in the name of the United States.

SECTION 430—COPYRIGHTS AND PATIENTS

Section 430 authorizes the Secretary to acquire necessary copyrights, patents, applications for patents, and releases for past infringement (before suit is brought).

SECTION 431—GIFTS AND BEQUESTS

Section 431 authorizes the Secretary to accept, hold, administer and utilize gifts and bequests of real and personal property in order to facilitate the work of the Department. Money and proceeds of sales of other property must be deposited in the Treasury for disbursement on the order of the Secretary.

SECTION 432—WORKING CAPITAL FUND

Section 432 authorizes the establishment of a working capital fund by the Secretary with the approval of the Office Management and Budget without fiscal year limitation for the necessary expenses involved in the operation of common administrative services.

SECTION 433—FUNDS TRANSFER

Section 433 authorizes the Secretary, if so authorized in an appropriation Act, to transfer in a given fiscal year, up to 10 percent of funds in an account from one appropriation to another.

SECTION 434—SEAL

Section 434 provides for establishment of an official seal for the Department. The seal will be judically noticed.

SECTION 435—ANNUAL REPORT

Section 435 requires a single, comprehensive annual report by the Secretary to the President for transmittal to the Congress on the activities of the Department in each fiscal year. The report is to include a statement of goals, priorities and plans for the Department as well as an assessment of the progress made toward attainment of such objectives and toward efficient and effective management of the Department and coordination of its functions. It also is to include an estimate of the extent of contracting-out for personnel within the Department.

SECTION 436—AUTHORIZATION OF APPROPRIATIONS

Section 436 authorizes appropriations to carry out the purposes of the Act and any additional functions that may be vested in the Department. These funds are to remain available without fiscal year limitation.

SECTION 437—GENERAL EDUCATION PROVISIONS ACT

Section 437 provides that, except where inconsistent with the Act, the General Education Provisions Act shall continue to apply to programs transferred to the Department to the extent it now applies to them.

SECTION 438—TECHNICAL ADVICE

Subsection (a) authorizes the Secretary to provide technical advice to participants or potential participants or applicants for departmental programs, grants and contracts.

Subsection (b) authorizes the consolidation of applications for two or more programs so long as the criteria for the programs are not changed.

SECTION 439—ALTERNATIVE ADMINISTRATIVE STRUCTURES WAIVER

Section 439 permits the Secretary to waive requirements of other statutes mandating specific State and local organizational structures for delivery of Federally-funded programs. The Secretary may approve alternative delivery mechanisms upon a showing that the mandated structure would inhibit organizational efficiency within the State or local government, and that the alternative structure would not endanger the objectives of the Federal statute.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SECTION 501—TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

Subsection (a) provides for the transfer to the Department of the personnel, assets and funds relating to the functions transferred by the Act. Unexpended funds so transferred are to be used only for the purposes for which originally authorized and appropriated.

Subsection (b) provides that statutory positions created by statute or reorganization plan to carry out the functions transferred by the Act, and the individuals holding those positions, are to be subject to section 503.

SECTION 502—EFFECT ON PERSONNEL

Subsection (a) provides that, except as otherwise provided in the Act, no employees (except special Government employees) shall be separated or reduced in grade or compensation because of their transfer under this Act for one year after such transfer or after the effective date of the Act, whichever occurs later.

Subsection (b) provides that any person holding an executive schedule position when the Act takes effect who is appointed to a comparable position in the Department shall retain at least his or her prior rate of pay so long as he or she serves in the new position.

SECTION 503—AGENCY TERMINATIONS

Subsection (a) terminates, upon transfer to the Department, the Education Division (except for the National Institute of Education), the Office of the Assistant Secretary for Education, the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education and Welfare, and the Office of Dependents' Schools of the Department of Defense.

Subsection (b) provides for the termination of positions created by statute, including executive level positions, in offices terminated pursuant to the Act.

Subsection (c) provides that reporting relationships provisions set by statute for officers and directors of offices transferred to the Department shall apply to the Secretary and that the Secretary can redelegate those relationships.

SECTION 504—INCIDENTAL TRANSFERS

Subsections (a) and (b) authorize the Director of the Office of Management and Budget to make necessary determinations about the transfers of functions and offices under the Act, to make necessary additional dispositions of personnel, assets and funds, to provide for terminating the affairs of agencies or components terminated under the Act, and to take any other steps necessary to effectuate the Act.

Subsection (c) authorizes the Director of the Office of Management and Budget, after consultation with the Director of the Office of Personnel Management, to make determinations in regard to transfer of Senior Executive Service personnel to the Department.

SECTION 505—SAVINGS PROVISIONS

Subsection (a) provides for the continuation of all effective orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges made before the Act takes effect despite the transfer of such functions to the Department.

Subsection (b), (c), (d) and (e) protect the status of any proceedings pending when the Act takes effect before any agency or component whose functions are transferred by the Act. Such proceedings may be discontinued or modified to the same extent permitted had the Act not been enacted. The Secretary may promulgate regulations to assure orderly transfer of such proceedings to the Department. The Act shall not affect suits commenced prior to the effective date of the Act, except to substitute or add the appropriate official of the Department as a party.

SECTION 506—SEPARABILITY

Section 506 provides for severability in the event any part of the Act is declared invalid.

SECTION 507—REFERENCE

Section 507 provides that, after the Act takes effect, references in any other Federal law to a department, agency, officer or office from which functions were transferred shall be deemed references to the Secretary, or any other appropriate official, Department or appropriate component of the Department.

SECTION 508—AMENDMENTS

Subsection (a) amends the order of succession to the Presidency to add the Secretary.

Subsection (b) adds the Department to the list of executive departments in the United States Code.

Subsection (c) amends the total number of executive level positions published under section 5311(b)(1) of title 5 of the United States

Code to reflect the additional executive level positions created by the Act.

Subsection (d), (e), (f), and (g) provide for the pay of the Secretary, Under Secretary, Assistant Secretaries, General Counsel, Inspector General and officers of the Department.

Subsection (h) amends subchapter II of chapter 53 of title 5 of the United States Code to substitute the title, "Department of Health and Human Services" for "Department of Health, Education, Welfare."

Subsection (i) amends the Comprehensive Employment and Training Act to reflect, with respect to consultation requirements imposed upon the Secretary of Labor or joint authorities exercised with other Cabinet officers, the fact that education functions have been transferred from the Department of Health, Education, and Welfare by the Act.

Subsection (j) amends the Alcohol and Drug Abuse Education Act to add the Secretary of Health and Human Services to the list of officers permitted to provide technical assistance.

Subsection (k) amends the Defense Dependents' Education Act of 1978 to reflect obligations of the Secretary and Department in regard to the overseas dependents' schools.

Subsection (l) amends the Elementary and Secondary Education Act of 1965 to set a time limit by which the Secretary of Health and Human Services must supply certain data relating to Title I eligibility of the States to the Secretary.

Subsection (m) abolishes four supergrade positions that were established outside the Government-wide pool of supergrades, but gives the incumbents "grandfather rights" in the Department of Education.

Subsection (n) makes a conforming amendment to the Rehabilitation Act of 1973.

SECTION 509—REDESIGNATION

Section 509 redesignates the Department and Secretary of Health, Education, and Welfare as the Department and Secretary of Health and Human Services, and provides that any references in laws or regulations to the Department of Health, Education, and Welfare shall be deemed to refer to the Department of Health and Human Services (unless the reference is with respect to a function transferred by the Act).

SECTION 510—TRANSITION

Section 510 permits the Secretary, with the consent of the head of any department or agency in the executive branch, to make use of personnel of such department or agency for transition purposes.

SECTION 511—OFFICE OF PERSONNEL MANAGEMENT REPORT

Section 511 requires the Director of the Office of Personnel Management, within one year after the effective date of the Act, to report to Congress on the personnel effects of creating the Department of Education.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SECTION 601—EFFECTIVE DATE

Section provides that the Act is to take effect 180 days after the Secretary takes the oath of office, unless the President prescribes an earlier date, except that, prior to the effective date, the officers provided for in Title II may be nominated and appointed and regulations for the transfer of pending proceedings may be promulgated. Funds appropriated for functions transferred under the Act may, with the approval of the Director of the Office of Management and Budget, be used to pay an officer appointed under the Act until funds for that purpose are otherwise available.

SECTION 602—INTERIM APPOINTMENTS

Section 602 provides that if an officer has not taken office when the Act takes effect, the President may designate any officer of the executive branch to act in such office until it is filled. The compensation of the temporary appointee will be at the rate provided for the office temporarily held.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INSPECTOR GENERAL ACT OF 1978

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, *the Department of Education*, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs

and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an office of Inspector General.

* * * * * * *

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, *Education*, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, *Education*, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

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COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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TITLE I—ADMINISTRATIVE PROVISIONS

PART A—ORGANIZATIONAL PROVISIONS

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CONSULATATION

SEC. 111. (a) The Secretary *of Labor* shall consult with the Secretary of Health [, Education and Welfare,] *and Human Services* with respect to arrangements for services of a health [, education,] or welfare character under this Act [, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respect to health, education, and welfare services] *The Secretary of Labor shall consult with the Secretary of Education with respect to arrange-*

ments for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

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PART B—GENERAL PROVISIONS

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REPORTS

SEC. 127. (a) * * *

(b) The Secretary [and the Secretary of Health, Education, and Welfare] , *the Secretary of Education, and the Secretary of Health and Human Services* shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act; and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

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TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

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MIGRANT AND SEASONAL FARMWORKER EMPLOYMENT AND TRAINING PROGRAMS

SEC. 303. (a) * * *

* * * * * * *

(c)(1) * * *

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[(3)] (*d*) For the [purpose] *purposes* of carrying out *subsection* (*b*) *and* (*c*) *of* this section, the Secretary shall reserve from funds available for this title an amount equal to not less than [(5)] *4.625* percent of the amount allocated pursuant to section 202(a).

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PART B—RESEARCH, TRAINING, AND EVALUATION

RESEARCH

SEC. 311. (a) * * *

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(g) The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of [Health, Education, and Welfare] *Health and Human Services, Department of Education*, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

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TRAINING AND TECHNICAL ASSISTANCE

SEC. 314. The Secretary, in consultation with the Secretary of [Health, Education, and Welfare] *Education*, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this Act.

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TITLE IV—YOUTH PROGRAMS

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PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

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Subpart 3—Youth Employment and Training Programs

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SECRETARY'S DISCRETIONARY PROJECTS

SEC. 438. (a(1) * * *

(2) In carrying out or supporting such programs, the Secretary shall consult, as appropriate, with the Secretary of Commerce, the Secretary of [Health, Education, and Welfare] *Education, Secretary of Health and Human Services*, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration.

* * * * * * *

TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

COMMISSION ESTABLISHED

SEC. 502. (a) There is established a National Commission for Employment Policy (formerly known as the National Commission for Manpower Policy and hereinafter in this title referred to as the "Commission"). The Commission shall be composed of [15] *16* members selected as follows:

(1) The Secretary, the Secretary of [Health, Education, and Welfare] *Education, Secretary of Health and Human Services,* the Administrator of Veterans' Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration.

(2) A representative of the National Advisory Council on Vocational Education established under section 162 of the Vocational Education Act of 1963.

(3) Nine members, appointed by the President, broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elective officials currently serving in office, community based organizations, individuals served by employment and training programs and of the general public.

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SECTION 19 OF TITLE 3, UNITED STATES CODE

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

(a) * * *

* * * * * * *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of [Health, Education, and Welfare] *Health and Human Services,* Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, *Secretary of Education.*

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

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TITLE 5, UNITED STATES CODE

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PART I—THE AGENCIES GENERALLY

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CHAPTER 1—ORGANIZATION

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§ 101. Executive departments

The Executive departments are:

The Department of State.
The Department of the Treasury.
The Department of Defense.
The Department of Justice.
The Department of the Interior.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.
The Department of [Health, Education, and Welfare] *Health and Human Services.*
The Department of Housing and Urban Development.
The Department of Transportation.
The Department of Energy.
The Department of Education.

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PART III—EMPLOYEES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Secretary of State.
(2) Secretary of the Treasury.
(3) Secretary of Defense.

(4) Attorney General.

(6) Secretary of the Interior.

(7) Secretary of Agriculture.

(8) Secretary of Commerce.

(9) Secretary of Labor.

(10) Secretary of [Health, Education, and Welfare] ***Health and Human Services.***

(11) Secretary of Housing and Urban Development.

(12) Secretary of Transportation.

(13) Special Representative for Trade Negotiations.

(14) Secretary of Energy.

(15) Secretary of Education.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Solicitor General of the United States.

(4) Under Secretary of Commerce.

(5) Under Secretary of Education.

(6) Under Secretary of [Health, Education, and Welfare.] *Health and Human Services.*

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of [Health, Education, and Welfare (5) *Health and Human Services (4)*.

* * * * * * *

(25) Assistant Secretaries of Education (6).

(26) General Counsel, Department of Education.

(27) Inspector General, Department of Education.

(41) General Counsel of the Department of [Health, Education, and Welfare] *Health and Human Services.*

* * * * * * *

(99) Commissioner of Social Security, Department of [Health, Education, and Welfare] *Health and Human Services.*

(122) Inspector General, Department of [Health, Education, and Welfare] *Health and Human Services.*

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§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of [Health, Education, and Welfare] *Health and Human Services* for Administration.

* * * * * * *

[(41) Commissioner of Education, Department of Health, Education, and Welfare]

(41) *Officers, Department of Education,* (5).

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(43) Commissioner of Food and Drugs, Department of [Health, Education, and Welfare] *Health and Human Services.*

* * * * * * *

(52) Commissioner of Vocational Rehabilitation, Department of [Health, Education, and Welfare] *Health and Human Services.*

(53) Commissioner of Welfare, Department, of [Health, Education, and welfare] *Health and Human Services.*

* * * * * * *

(144) Deputy Inspector General, Department of [Health, Education, and Welfare] *Health and Human Services.*

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SECTION 5 OF THE ALCOHOL AND DRUG ABUSE EDUCATION ACT

TECHNICAL ASSISTANCE

SEC. 5. The Secretary, *the Secretary of Health and Human Services,* and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department [of Health, Education, and Welfare], *the Department of Health and Human Services,* and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program.

SECTION 1411 OF THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

SEC. 1411. (a) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the "Assistant Secretary"), *and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the "principal officer")*, who shall be the [chairman] *co-chairman* of the Council;

(2) twelve individuals appointed by the Assistant Secretary *and the principal officer*, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

(3) a representative of each of—

[(A) the Commissioner of Education, Department of Health, Education, and Welfare,

[(B) the Director of the National Institute of Education, Department of Health, Education, and Welfare,]

(A) the Secretary of Education,

[(C)] *(B)* the Director of the Educational Directorate of the National Science Foundation,

[D]*(C)* the Chairman of the National Endowment for the Arts,

[E] *(D)* the Chairman of the National Endowment for the Humanities, and

[(F)] *(E)* the Secretaries of the military departments.

The Director shall be the Executive Secretary of the Council.

* * * * * * *

(c) The Council shall meet at least four times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,

[2] *(3)* provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

[3] *(4)* advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of this title, and

[4]*(5)* perform such other tasks as may be required by the Assistant Secretary.

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SECTION 111 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

GRANTS—AMOUNT AND ELIGIBILITY

"SEC. 111. (a) AMOUNT OF GRANTS.— * * *

* * * * * * *

(c) CHILDREN TO BE COUNTED.—(1) * * *

(2)(A) * * *

(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary not later than February 1 of each year.*

SECTION 352 OF THE ENVIRONMENTAL EDUCATION ACT OF 1978

OFFICE OF ENVIRONMENTAL EDUCATION

SEC. 352. There is established within the Office of Education an Office of Environmental Education (referred to in this section as the "Office") which, under the supervision of the Commissioner, by regulation, shall be responsible for (1) the administration of the program authorized by section 353 and (2) the coordination of activities of the Office of Education which are related to environmental education. The Office shall be headed by a Director [who shall be compensated at a rate not to exceed that prescribed for grade GS-17 in section 5332 of title 5, United States Code].

SECTION 160 OF THE VOCATIONAL EDUCATION ACT OF 1963

FEDERAL ADMINISTRATION

SEC. 160. (a) * * *

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner[, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code].

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SECTION 512 OF THE HIGHER EDUCATION ACT OF 1965

ESTABLISHMENT OF TEACHER CORPS

SEC. 512. In order to carry out the purposes of this part, there is hereby established in the Office of Education a Teacher Corps. The Teacher Corps shall be headed by a Director [who shall be compensated at the rate prescribed for grade 17 of the General Schedule of the Classification Act of 1949, and a Deputy Director who shall be compensated at the rate prescribed for grade 16 of such General Schedule.] *and a Deputy Director.* The Director and the Deputy Director shall perform such duties as are delegated to them by the Commissioner; except that (1) the Commissioner may delegate his functions under this part only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this part.

REHABILITATION ACT OF 1973

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TITLE II—RESEARCH AND TRAINING

* * * * * * *

INTERAGENCY COMMITTEE

SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the "Committee"), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Dirctor, the [Commissioner, the Commissioner] *Secretary* of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of

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Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

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TITLE V—MISCELLANEOUS

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INTERAGENCY COORDINATING COUNCIL

SEC. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the "Council") composed of the Secretary of [Health, Education, and Welfare,] *Education, the Secretary of Health and Human Services*, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.

SEPARATE VIEWS OF HON. ELLIOTT H. LEVITAS

I have long believed that one of the strengths of this Nation lies in the ability of each community to educate its own children. Its sons and daughters learn about the past, present and future of the larger world in the framework of community values and ideals. This diversity and local heritage is an underpinning of our society. Both public and private schools should be allowed to fulfill that important responsibility without being burdened by the paperwork and escalating bureaucracy of big government.

Today, schools at every level are taking away time and money that could be spent in educating children to fill out duplicate reports and comply with overregulation. Educators are getting lost in the education establishment which is scattered throughout HEW and elsewhere. A local school superintendent or a college president cannot get answers. He becomes an archeologist digging through the many levels of bureaucracy within HEW and may never receive a clear-cut answer.

With the proposed Cabinet-level Department of Education, I see an opportunity to correct this situation. Rather than creating a new bureaucracy, it actually reduces the number of bureaucrats. It does not create one new office, or add power or increase spending. What it does do is force education to be accountable, something it could never be buried as it is in the bowels of HEW and the Departments of Labor, Defense, Justice, Interior and Housing and Urban Development. It brings together 150 programs which are now scattered in an invisible education establishment and makes them visible and accountable. If we don't bring all the pieces out up front, how can we ever know how many taxpayer dollars are being spent on all sorts of educational programs? Who is spending that money? For which educational purposes? The way it is now, hidden in the nooks and crannies of big government, we can never know for sure if any program has been overlooked in an accounting.

This bill will actually tighten up the reins on bureaucrats and put a leash on the Department instead of writing out a blank check for a new Secretary. The bill contains two amendments that I authored which would make this the first Federal agency to be created with fewer bureaucrats than before and a set of built-in brakes to prevent any future bureaucratic growth. Today, HEW has 145,000 employees on payroll and a budget of $184 billion. My "personnel limitation" amendment staturorily cuts 450 positions off the new Department payroll within 1 year, and thereafter (with a minor exception), does not allow the hiring of any new employees without the passage of an act of Congress. Small is, indeed, beautiful. This type of reduction-of-bureaucracy-before-it-gets-started is unprecedented in our history. This is one Department that cannot just grow and grow. In fact, it will be smaller.

My other amendment makes this the first Government agency to be established from the outset with a legislative veto provision on substantially all of its rules and regulations. The amendment extends the presently existing General Education Provisions Act veto provisions to substantially all transferred functions and programs. Congress would have 45 days in which to disapprove a rule or regulation through passage of a concurrent resolution by both Houses.

This congressional veto provision will have a twofold effect. It makes the Department more responsive to the public and to congressional intent by establishing the unquestioned realization in each agency that they cannot promulgate regulations with inpunity. They will know that Congress is paying attention to what they are doing, looking over their shoulders, and can take action if they go off the wrong track. It is axiomatic that we will see more carefully drafted regulations, as well as more attention being paid to the views of citizens during the comment period. Its very existence will sensitize the bureaucracy and make it more responsive.

To those who say they fear the centralization of education as the end of local control, I say it's an achievement to be able to bring all the parts of the education establishment out in the open. All those programs exist and exert controls today but can't easily be identified. The powers that they have today, they will have tomorrow. No more, no less. In my view, this bill contains the strongest guarantees to local control that I have seen in any bill. Section 103 says that

> The Secretary * * * [may not] * * * exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school * * * [or] library resources, textbooks, or other instructional materials.

We will have better, not more, Government. President Carter has said he would veto any bill creating this new Department which would bring about a greater intrusion by the Federal Government in local education. This bill does not do that. It guarantees local control.

As a member of this committee, I have had the opportunity to speak with the widest variety of people from many States. These local school board members, parents and teachers described in a chorus how terrible the current paperwork and bureaucracy situation is in the current establishment. They strongly endorsed this new Department as a vehicle for putting education back in local hands. In my conversations with local people, those people who are the most jealous of local control have supported this bill including local school board members, and associations and State school superintendents.

More than anything, this bill is an opportunity to check the hidden growth of education functions which have sprung up all over Government. It identifies them for better congressional oversight; it limits their growth; and it gives citizens, through their elected Representatives, the right to stop a bad regulation before it carries the weight of law. It will give us a better and more responsive educational future for America's boys and girls.

Elliott H. Levitas.

SUPPLEMENTAL VIEWS OF HON. CARDISS COLLINS

My cosponsorship of H.R. 2444, to establish a Department of Education, is predicated on my commitment to equal educational opportunity.

The legislation as it now stands contains provisions for an Assistant Secretary for Civil Rights (OCR) who shall: (1) assume all functions, other than administrative and support functions, vested in the Office for Civil Rights of the current Department of Health, Education and Welfare (HEW), and (2) make annual reports to the Secretary and to Congress summarizing the compliance and enforcement activities of OCR and identifying significant civil rights or compliance problems for which OCR has made a recommendation for corrective action and adequate progress is not being made. In addition, the Assistant Secretary of OCR is authorized to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within its jurisdiction and to select, appoint and employ officers and employees including staff attorneys. Further, I offered an amendment, which has been approved in the full committee, which authorizes the Assistant Secretary to enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and with private persons and to make such payments as may be necessary to carry out its compliance and enforcement functions.

I have taken care to specify the abovementioned provisions contained in H.R. 2444 because in my view, they are the lowest common denominator in terms of insuring certain management and structural autonomies within the Office for Civil Rights. My support for final passage of H.R. 2444 will depend on the quality of civil rights compliance and enforcement functions available to the new department to fulfill one of its major purposes: to continue and strengthen the Federal commitment to insuring access to equal educational opportunities for all individuals. Neither I, nor any other member of the Congressional Black Caucus, will support any diminution in the implimentation of enforcement programs pursuant to title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race and national origin), title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of sex), and section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of handicap).

A major portion of HEW's recent compliance initiatives have resulted from the specific direction of a Federal district court in a lawsuit known as *Adams* v. *Califano.* Pursuant to the *Adams* litigation, HEW is required to pursue enforcement action in several States where the court found unlawful, dual systems of higher education. Last year, attempts were made to attach language to the bill that would bar the new Department from requiring any ratio, quota or other numerical requirement related to race, color, national origin or sex. If successful, the agency would have been severely and permanently crippled from carrying out its mandated antidiscrimination enforcement responsibilities. I point out that the Supreme Court's opinion in the *Bakke* case approves use of race-related remedial programs by courts and Congress to cure specific instances of prior discrimination where such findings are made.

We continue to face the overwhelming reality that discrimination against minorities, women, and the handicapped exists in federally funded programs. Our Nation's governmental apparatus must be applied fully to combat racism and sexism which deny equal opportunity. The U.S. Commission on Civil Rights' recently issued report on the desegregation of our Nation's public schools found that 46 percent of this country's minority pupils—close to 5 million children—still attend schools in at least moderately segregated districts. The Commission also found that it is Congress itself that "has taken steps that severely impede the ability of the Department of Health, Education and Welfare to enforce the Civil Rights Act of 1964."

A strong and autonomous Office of Civil Rights in H.R. 2444 is essential to the implementation of an all-out enforcement effort that will make clear that the Nation is firmly committed to the goal of insuring equal educational opportunities.

CARDISS COLLINS.

ADDITIONAL VIEWS OF HON. L. H. FOUNTAIN

I have given considerable thought to the proposal for establishing a Department of Education. In particular, I have carefully examined the recent testimony of the OMB Director before the Brooks subcommittee.

As I understand it, the administration does not claim a Department is necessary for developing a national education policy. On the contrary, Mr. McIntyre acknowledged that the Federal role in education is "limited and specific". This is a fundamental point that deserves emphasis. The proposed department is not intended to be an instrument for developing a Federal policy for education.

If educational policymaking is not at issue, then, what is the justification for a new Department? The administration bases its case on improved management. In Mr. McIntyre's words:

> The question before the Congress is simply this: How do we most effectively manage more than 150 Federal education programs? Do we do this through a separate Department, as the administration has proposed, or do we continue with the existing organization?

He then proceeded to present the case for a separate Department.

I would have no objection to giving education Cabinet status if this step were necessary to produce more effective and economical program management. I regret to say, however, that I am not persuaded that better management would automatically follow.

Of greater importance, I find it disappointing that the administration has not given attention to another management option—namely, a critical review of those 150-plus education programs to determine how many of them are really needed today.

Particularly since Sputnik, we have created a maze of programs, many of them overlapping and duplicative with complicated regulations and administrative relationships. It would be far more useful, in my judgment, to concentrate on weeding out programs that have outlived their usefulness, that duplicate one another, or that simply don't work, than to devote our energies to creating a new organizational structure which might well help to perpetuate many of these programs. I believe we would accomplish far more by giving attention to reducing the number and complexity of the programs we have spawned before concerning ourselves with organizational matters.

In any event, since the administration has chosen to build its case on management effectiveness, I want to examine briefly some of the benefits it anticipates from a Cabinet Department.

Mr. McIntyre testified that the processing of education matters within HEW is unduly slow because of unnecessary duplication and fragmentation in the Department's organizational structure. He stated, for example, that the average time required to issue a routine regulation is nearly 1½ years. A Department of Education, he said, would cut the time in half by eliminating 15 offices from the clearance process.

I find this a shocking indictment of the HEW bureaucracy and I plan to discuss this matter with Secretary Califano. Surely, no Department clearance process should take that long for the issuance of a noncontroversial regulation. I anticipate we can do something about this problem.

Similarly, the OMB Director testified that a separate Department of Education could reduce the time it now takes to prepare the education budget by 40 percent, and also speed up the process for developing legislative proposals. I don't see this as a significant argument for another Department, since the budget cycle is an annual one and HEW obviously manages to get its education budget to OMB on time even if the internal processing does take longer. As for slower and more deliberate review of legislative proposals, I would view this as a strong argument for retaining education in HEW. Since professional bureaucrats excel at promoting the expansion of their programs and their jurisdiction, a more thorough and objective review can only be salutory—especially in an area which even the strongest proponents of a new Department concede is basically a State and local responsibility.

One important proponent is the National Education Association, which testified that "the Federal Government ought to be paying as much as one-third of the cost of public education". The NEA's goal of a one-third Federal share stands in sharp contrast with the approximately 8 percent the Federal Government presently contributes, through all its programs, to public education. What a field day the education interests could have in pressing for a larger Federal percentage without the present constraint of having to compete with health and welfare advocates for a share of the HEW budget!

It should be noted, in this regard, that the Advisory Commission on Intergovernmental Relations—which includes representation from all levels of Government—has recommended that State governments assume "substantially all" fiscal responsibility for supporting the public schools. A Federal Department of Education would be bad management policy.

The OMB Director further testified that the President has expressed concern because education issues have rarely been brought to his attention in Cabinet meetings or other discussions. With the President deeply involved in the pressing issues of world peace, national defense, the energy problem, inflation and recession, and such domestic questions as national health insurance and welfare reform, I think the President would want to be spared the demands on his time that would result from the establishment of an additional Cabinet Department. It appears to me this would certainly be the case when the issues relate principally to the program management rather than education policy.

If the President has a personal interest in a particular education matter, he can surely invite the principal HEW officials concerned to the White House for discussions, or the President can instruct the White House staff to pursue the matter for him. Presidents have rarely, if ever, used Cabinet meetings as a forum for resolving issues that pertain to a single Department.

As a further observation, I think we should recognize that the Federal Government, despite its increasing support for education, has not provided solutions for the problems that afflict our schools. The plain truth is that the Federal Government has no special competence for improving the quality of education or student performance. I believe it is appropriate for the Federal Government to support research aimed at obtaining a better understanding of these difficult matters, but we should not delude ourselves into believing that a new department, or even more Federal spending, will solve them.

Not to be underestimated are the valuable contributions which the HEW Inspector General has made thus far to the overall efficiency and economy of that department. Those efforts have not only the potential for saving billions of tax dollars over the next several years, but also the potential for improving program management within the existing departmental framework. In fact, one of the major purposes for the 1976 establishment of the Office of Inspector General in HEW, through legislation which I and others introduced, was to accomplish the very managerial goals which the administration puts forth in support of this bill.

Better coordination and better management of the existing education programs are surely desirable objectives. However, I have not seen persuasive evidence that upgrading the Office of Education to Cabinet status, with the responsibility for administering little more than half the Government's education programs, would make a significant difference. Consequently, I cannot support this legislation on its merits.

The major responsibility for the development of educational policy should remain decentralized—under the watchful eyes of parents, local school boards, and local administrators. We cannot afford to erode State and local control to any greater extent than we regrettably have already, nor should we further politicize the flow of educational dollars from Washington.

Let us lay aside the justifications and vague hopes offered by the lobbyists and special interest groups and think instead of the children of our nation—the real consumers of education. Will they be best served by an even more massive educational bureaucracy centralized in Washington? The answer is no.

Cabinet Departments ought not be created except in times of legitimate or compelling national need, and the burden of proof should be squarely on the proponents' shoulders. The evidence in favor should be clear and convincing, but the proponents of the legislation have not made a concrete case for moving from our very important Federal supplementary aid to edcuation to Federal responsibility for education which, I fear, is not too far down the road if we enact this legislation.

In researching this entire issue, I came across a statement made by a Member of Congress which sums up in a paragraph one of the most persuasive arguments against this bill. Speaking in opposition to legislation to establish a Department of Education in the Federal bureaucracy, he said:

> I am not of the opinion that an establishment of this sort in this city through the General Government will really pro-

> mote the cause of education in the country. It will be a benefit to a few persons; but that it will reach the masses of the people of the common schools of the country in any beneficial influence I do not believe.

That member was Senator Thomas A. Hendricks of Indiana. Now for those who know that Senator Bayh and Senator Lugar represent Indiana, let me point out that Senator Hendricks has not been in Washington for a while. In fact, he made that statement on the Senate floor on February 28, 1867 as the 39th Congress debated a bill to establish at the Federal level a Department of Education. The debates recorded in the Congressional Globe are intriguing from an historical point of view, but are also informative and enlightening for our more immediate purposes as we consider this proposal in the 96th Congress.

When the House debated that legislation 112 years ago, Representative Andrew J. Rogers of New Jersey called it:

> * * * a proposition which is a mere scheme of philanthropy, got up for the purpose of educating the children of the whole country, and the result will be that in a short time this bureau will need more clerks and expenses for stationery * * * And where will it end? It will not stop until we run up a bill of expenses that will materially injure the finances of the Government.

Representative Samuel W. Moulton of Illinois wondered aloud on the floor of the House how the so-called need for the legislation arose—how it was brought to the attention of Congress. He answered his own question:

> In last January or February the leading educational men in this great Republic met here in this city of Washington, and after a long and careful conference, and a full discussion and hearing upon all sides, they came to the conclusion that a Department of this kind was absolutely necessary for the benefit of the whole country and the promotion of the educational interests of the country.

Senator Garrett Davis of Kentucky also argued against the bill:

> (The bill) seems to me to be more of a device to create officers and patronage and to make drafts on the Treasury than anything alse. Instead of increasing the bureaus in the Departments, I would be willing to discontinue about half a dozen of them. I think there are a great deal to many already * * * This thing of Congress drawing into the vortex of the power of the National Government so many subjects and interests that, according to my judgment, belong peculiarly to the States, and were intended to be left exclusively to State management, and that can be so much more wisely and successfully and beneficially managed by the States than by Congress, is a very mistaken policy. That is my humble opinion * * *

Despite these arguments, which made good sense in 1867 as they do in 1979, Congress passed the bill, and President Andrew Johnson signed it into law on March 2, 1867. The Department of Education, in the words of the act, was established:

> * * * for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and Territories, and of diffusing such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

Interestingly enough, the 39th Congress authorized not only a Commissioner of Education to manage the new Department but also three clerks to assist the Commissioner. The Commissioner's salary was set at $4,000 a year and the clerks were to be paid salaries of between $1,600 and $2,000 per annum. Incidentally, Members of Congress at the time, according to the Globe, received a salary of $3,000 per year—less than the Commissioner earned.

The Commissioner of Education was required under the 1867 act to present an annual report to Congress "embodying the results of his investigations and labors, together with a statement of such facts and recommendations as will, in his judgment, subserve the purpose" of the Department. I might add that the Department was not a Cabinet-level entity, but was labelled a Department so that the Commissioner could select and appoint his own clerks. If it had been called a "bureau", the Commissioner, according to the state of the law at that time, could not have personally chosen his clerks.

Based on the action taken by the 39th Congress, supporters of this legislation before us in the 96th Congress might argue the 1867 act is of precedential value today. However, before that conclusion is hastily reached, let us look further at the history of the original Department of Education.

The 40th Congress repealed the Department of Education and relegated it to the status of an "Office" within the Department of the Interior, under the direction of the Interior Secretary, effective June 30, 1869. That action came in the form of an amendment to an appropriations bill, signed by President Johnson on July 20, 1868.

The legislative history of the successful effort to repeal the Department shows that when the House Appropriations Committee reported the bill to the full House, no money was included to fund the Department of Education for the next year. A section of that appropriations bill mandated the automatic repeal of all statutes creating departments and bureaus not funded in the bill itself.

The termination of the Department with approximately 1 year's notice was a conference committee compromise. The House had wanted to discontinue the Department by refusing to appropriate money—the course of inaction urged by the Appropriations Committee. The Senate amended the House bill to continue full funding of the Department.

At the center of the dispute over the future of the Department was the Commissioner of Education, Prof. Henry Barnard of Connecticut, a former State superintendent of public schools in Rhode Island and Connecticut. A careful reading of the floor debates on the repeal of the Department shows that Professor Barnard was a controversial official.

For instance, Representative Elihu B. Washburne of Illinois, a member of the House Appropriations Committee said:

> We found on examination that this Department, which was established when we were in the mood for establishing almost everything and making appropriations for almost every purpose, had never, in point of fact, been put in operation; that the Commissioner of the Department had, during the 10 months or thereabout since his appointment, only spent 2 months of that time in Washington, and had no office here except one over a restaurant * * * If I had time I would argue the question of the necessity of a Department of this kind in this country. I would like to know why we should launch out with these numerous departments.

Nowadays, we call it "congressional oversight." I do not know if the 40th Congress had a formal name for that essential function of the legislature, but the practical effect and the message are the same—repeal unnecessary and duplicative departments, agencies, and programs. Even better, don't authorize them in the first place.

In support of the repeal, Representative Washburne stated the question before the House:

> The question for the House to decide is whether at this time, when our people are crushed to the Earth with taxation, when so many in various branches of labor are without employment, we shall foist this Department permanently upon the country at an annual expense of thousands of dollars * * *

In 1979, we substitute the word "billions" for Representative Washburne's "thousands" and we have fairly characterized the issue.

Representative Theodore M. Pomeroy of New York had perhaps the most succinct summation of the compelling need for repeal of the Department:

> This is a barnacle that has grown on the ship of state, and the quicker we scrape it off the better for the Government and the people.

As the full House considers this bill, we should bear in mind the statement of Representative John F. Farnsworth of Illinois in support of the 1868 repeal. Representative Farnsworth addressed the issue of where the major responsibility for education in this country properly lies:

> Education must start from the root, from the home, with the primer and the spelling book. Education must be patronized by the States, by the establishment of schools, colleges, and institutions of learning. They must be the custodians of the education of the children of this country and of the children of a more advanced age * * * A Department of Education located here in Washington cannot be the custodian of education; nor can such a Department, it seems to me, be of any sort of advantage to the country.

A thorough examination of the legislative history of the establishment and the repeal of a Department of Education well over a century ago demonstrates that Members of the 39th and 40th Congresses were clearly concerned, as we are in the 96th Congress, about expanding the size of bureaucracy, about spending tax dollars unwisely, about establishing a mechanism which could ultimately lead to complete Federal control of education.

The Federal Government has a limited—repeat, limited—role to play in aid to education in the country. We have some good education programs going. Many could stand a great deal of improvement for the sake of economy and efficiency. However, giving education a Cabinet-level Department all of its own is exceedingly dangerous. It will not solve the problems; rather, it will add to the existing problems and undoubtedly create more.

From 1867 to 1979, times have not changed as much as we think—or would like to think. To establish a separate Department of Education in 1979 would be as unwise and ill-advised as it was in 1867. If this legislation is enacted, many of us—perhaps even some of the supporters of this bill—will be back here next year or the year after that arguing, as Representative Pomeroy did 111 years ago, that we ought to scrape this barnacle off the ship of state, for the good of the Government, but more importantly, for the good of the people. The better course is to reorganize HEW from within and not let the barnacle creep further onto the body politic. The Federal Government has no business centralizing education in a manner contrary to the constitutional and traditional system which reserves to state and local governments the primary responsibility for the quality education of our children.

L. H. Fountain.

ADDITIONAL VIEWS OF HON. JOHN N. ERLENBORN, HON. L. H. FOUNTAIN, HON. JOHN W. WYDLER, HON. CLARENCE J. BROWN, HON. PAUL N. McCLOSKEY, JR., HON. THOMAS N. KINDNESS, HON. ROBERT S. WALKER, HON. ARLAN STANGELAND, HON. M. CALDWELL BUTLER, HON. WAYNE GRISHAM, AND HON. JIM JEFFRIES

Once again the administration has proposed, and the Committee on Government Operations has approved, the transfer of Department of Defense overseas dependents schools (DODDS) to a Cabinet Department of Education. We believe this would be an unfortunate mistake at the expense of the children of our military personnel.

The arguments for keeping DODDS in the Department of Defense are compelling. Transfer of DODDS to a Department of Education would rupture the interdependence between the schools and the military, creating significant logistical problems. It would also put a Federal educational policymaking agency in the business of operating schools for the first time.

With respect to logistical problems, almost every critic of this transfer has cited the difficultiies of one Cabinet Department operating within the context of another's operations as a major disadvantage to placing DODDS in a Department of Education. These critics include this year's and last year's chairmen of the Appropriations Committee, the ranking Republican and chairman of the Defense Appropriations Subcommittee, the chairman and ranking Republican of the Armed Services Committee, and Rufus Miles, Jr., long an advocate of a Department of Education and familiar professionally with DODDS. Even OMB expressed reservations initially.

DODDS depends on the Defense Department for a variety of services: personnel functions, warehousing, transportation of personnel and supplies, maintenance, food services, school buses. The cost of duplicating these services would be prohibitive. Cooperative agreements, on the other hand, pose significant administrative hurdles. Who would arbitrate disputes between the Secretaries of Defense and Education? Should we have the Office of the President decide who is responsible for school lunch facilities in England or bus service in Okinawa?

Said Rufus Miles:

> The Department of Defense has a system in being that is operated overseas where the logistical support is adjunct to its other logistic support of bases and personnel. A Department of Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education.

> The costs would rise because of the need to duplicate such a support system. Again, the arguments against the operation of any schools by a Department of Education should, alone, be decisive.

Said Dr. Anthony Cardinale, Director of DODDS (in testimony before the General Labor Subcommittee on the Overseas Education Act of 1973):

> The logistical support system necessary to maintain the worldwide dependents' education program is now provided by the base commander through the military Departments. To remove the budgetmaking process and budget decisions from the military Department and the Department of Defense places both in an inoperative position.

And the words of OMB:

> Problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureauratic, and the schools would suffer as a result. A transfer would in effect be creating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This could require an excessive amount of time of officials in higher reaches of both Departments and produce adverse effects on the attainment of goals.

This strong interrelationship between DODDS and the military communities reflects bureaucratic organization throughout the Government. Education function are tied to the primary missions of host agencies—a condition which the Hoover Commission on Government Reorganization recognized and advised retaining. Thus science education programs have been part of the National Science Foundation; Indian education programs have been located in the Department of the Interior, and child nutrition and feeding programs have been in the Department of Agriculture. This arrangement assures the staff and logistical support—the expertise—this is necessary for the execution of a host agency's primary mission.

With respect to our second reservation, Federal education policymaking agencies have always demurred from operating schools, although the Office of Education has had the authority to do so in certain federally impacted areas since passage of Public Law 81–874 29 years ago. This reluctance was reconfirmed only last year by Dr. Thomas D. Minter, Deputy Commissioner of OE during Education and Labor Committee consideration of H.R. 9892, the Defense Dependents Education Act of 1978:

> Mr. ERLENBORN. How do you feel personally about the Office of Education of HEW being in the business of operating schools?

> Dr. **Minter.** Well, I don't believe we should be in the business of operating schools; certainly I don't think that is our function and I don't think that is the intent of Congress.

During hearings this year on the Department of Education, Commissioner Boyer admitted. "as a general policy," OE should not operate schools, but considered DODDS an exception. Why, we were not told.

The problems of running schools on a day-to-day basis are simply incompatible with administering Federal education policy. Setting criteria for grant awards is far different from setting bus routes and enforcing attendance. In brief, a Department of Education running DODDS represents what we fear most about a Department of Education: A Federal schoolboard—Federal education policymakers having direct control over the education of children. Even OMB expressed concern over the temptations to experiment wrought by this arrangement.

The casualties of experimentation would be the 135,000 overseas dependent students representing our Nation's 11th largest school system. Consistency in curricular and educational programs is important to any child but is particularly necessary within the context of overseas schools, where the normal tour of duty is 3 years, entailing a change in overseas schools or from overseas to a stateside school every 3 years.

It has been charged that the Defense Department has ignored the dependent schools, or at very least, has not afforded them the attention they deserve. DODDS has been through trying times in the past, but the record shows significant progress since 1974, and particularly since 1976.

Specifically, in 1974, responding to a GAO report, an Education Division was established and procedures were developed to unify the curricula of European, Pacific, and Atlantic schools. That same year, DODDS promulgated its first 55-year curriculum review plan to provide policy guidance and to outline priorities for curriculum development. A second plan has now been drafted.

In 1976, in response to a study for the DOD Secretary Schlesinger, the management and funding of DODDS were centralized in the Office of the Secretary of Defense, replacing division of the school's operations among the Army, Air Force, and Navy. DODDS is now a seperate budget item for base commanders' attention. Supplies have now been arriving on time.

Mr. Erlenborn recently returned from visiting several overseas bases and there is uniform agreement among base commanders, regional DODDS administrators, and parents that the 1976 consolidation has brought significant improvement in the administration and quality of the schools. In fact, Deputy Secretary of Defense Charles Duncan, in recommending against this transfer, termed OMB's assessment of school management "badly out of date * * * Hard work within DOD has led to dramatic management improvements since (1976)."

This is not the record of maladministration and neglect asserted by proponents of this transfer. Indeed, we believe our comments provide a clear, substantive basis for retaining the DODDS within the Defense Department and that most of the proponents' ardor stems less from any substantive merits for this transfer than from the desire to appear to be consolidating something—anything—into a Department of Education.

We submit that endangering the educational opportunities of the students and putting DODDS through reorganization is too high a price to pay for political appearance. We believe these 135,000 children and their parents deserve better from their government.

John N. Erlenborn.
L. H. Fountain.
John W. Wydler.
Clarence J. Brown
Paul N. McCloskey, Jr.
Thomas N. Kindness.
Robert S. Walker.
Arlan Stangeland.
M. Caldwell Butler.
Wayne Grisham.
Jim Jeffries.

DISSENTING VIEWS OF HON. WILLIAM S. MOORHEAD

While I am now and always have been a strong supporter of education, I oppose the creation of a Department of Education.

My reasons for opposing the creation of a Department of Education are several.

First, it is not necessary. I was left unconvinced by the arguments of the proponents for the need for such a Department. The proponents claim it will enhance the visibility and prestige of education in the Federal Government and provide for greater efficiencies in the management of Federal education programs. Yet these reasons strike me as insufficient to justify the creation of a Cabinet level Department.

Education already is highly visible. It has enormous prestige. It is ingrained in the American fabric and psyche as a fundamental part of each American's birthright. American children are told by their family, friends and peers that a good education is vital to the growth and well being of the individual. Indeed, the word "college" has a certain magic to it for the young and for their parents, conveying as it does both a motivation for today and a goal for tomorrow.

Not only does education have the prestige of being part of the American dream, but the Federal Government has already responded to the financial needs of education. In the past 17 years, we have seen Federal education dollars expand from $1.237 billion in 1962 to $7.840 billion today (in constant 1972 dollars). Such growth was accomplished without a Department of Education. There is no reason to believe that such continued strong and growing support for education would not continue regardless of whether a Department was created.

Second, and most important, the creation of a Department of Education is potentially dangerous. In creating a Department of Education, such a Federal Department would have the potential for centralizing educational policy in America. At first blush, this may seem a good idea. Yet America has always been a land of diversity, a place where ideas were supposed to compete in the intellectual market place, a country where tolerance for differences is considered a strength.

Pluralism of education is fundamental to differences in thought, which is why America has had a long and hallowed tradition of local control of education. With local control of education comes not only the natural differences that one locality has from another but also the protection against an imposed uniformity of thought. A Department of Education cuts against this tradition and the reasons for this tradition. Proponents of the Department maintain that local control of education is assured by statutory language in the bill. Yet, it is my experience that too often the intent of Congress is passed over by the natural inclination of dedicated bureaucrats to regulate—even to legislate. To me, the creation of this Department provides a potential for a centralization of the control of ideas, a potential which may or may not be realized but one which will be latent for as long as the Department exists. And, as we all know, where there is potential for a thing to be done, there are eventually people who attempt to realize that potential for whatever purposes—good or evil. This, then is my concern.

The creation of such a potentially dangerous Department may be a very large mistake which I believe that future Congresses will find virtually impossible to undo. If we are to err, I believe that we should err on the side of caution and thus there should be a presumption against the creation of this Department—a presumption which the proponents have, to my mind, not been able to overcome.

William S. Moorhead.

Dissenting Views of Hon. Benjamin S. Rosenthal, Hon. John Conyers, Hon. Henry A. Waxman, and Hon. Ted Weiss

It is our judgment that the proposed Department of Education fails to meet the standards required for the establishment of new departments and, in fact, violates every rule of good management, good organization and even good politics.

Some have said, and we think with much justification, that reorganization has become a religion in Washington. It is deemed synonymous with reform, and reform with progress. It purifies bureaucratic blood and prevents stagnation and, for the true believer, reorganization can produce miracles, eliminate waste, save billions of dollars, and restore to health and vigor a chronically ill bureaucracy.

We do not believe that reorganization is a panacea, the magic elixir or the miracle drug it is claimed to be. In fact, it is not at all clear that any of the deficiencies in education today are even related to the organization chart.

Moreover, the proposal for a Department of Education constitutes a rejection of the theory of administrative management which underlies the recommendations of the first Hoover Commission (1949), the Heineman Commission (1967), and the Ash Council (1971). All three Commissions argued for large departments organized around general purposes and rejected any need for narrow, constituency oriented departments.

While the concept of a general purpose department is difficult to define precisely, it does suggest that departments should have as their objective the achievement of certain national policies, not merely the maintenance of relatively narrow grant programs. It also suggests that the Secretary of a Cabinet-level Department should not be faced with a single set of interest groups, but rather should have a sufficient number of competing interest groups so that he is not unduly influentced by any single pressure group.

The Department of Health, Education, and Welfare is frequently accused of being "unmanageable" and hence the suggestion is to break it up into parts. No proof is offered for this assertion other than the usual recitation of bureaucratic "horror stories." Size is not necessarily a determining variable. Managability is more related to factors like the validity of the concepts being implementated by the agency, its statutory authority, and the discretion given the top administrators.

The proposal to establish a Department of Education is really a proposal to dismantle the Department of Health, Education, and Welfare. If the educators have their own department, will the medical profession also demand a department of its own? And the remnant, the social welfare and income maintenance groups would, by default, have their own department. It is not unreasonable to assume that by deciding to establish a Department of Education, Congress is really deciding on three new Departments, not one.

The Secretary of HEW is available to consider policy, program, and budgetary priorities on a broad scale. The first tier of compromise and accommodation is within the Department, not between Departments arguing as semisovereign units at the Cabinet level, or leaving all the compromising to autonomous committees of Congress. The President already has enough difficulties developing a budget which accommodates his various Departments and agencies without increasing those pressures by adding new departments. Similarly, the congressional leadership and Budget Committees already have enough difficulties in accommodating the desires of groups to the fiscal needs and requirements of the Nation without adding to the burden by becoming the principal arena for compromising between the competing demands of the educators, the medical groups and the welfare groups. In short, the Department of Health, Education, and Welfare has served an extremely useful administrative and political purpose and should not be destroyed without first recognizing the costs that are likely to be incurred.

WHY A DEPARTMENT OF EDUCATION?

Why has the proposal for a Department of Education been brought up at this time? The principal reason normally given is that the President made a campaign promise to create such a Department and he has decided to keep that promise. To be sure, the idea has been around for a long time, but it never really attracted much attention until recently. The reason was, in part, that it runs counter to the dominant public administration view as to how the executive branch ought to be structured. Another reason that the idea never really had much backing was that the education field is not monolithic. There is no generally accepted philosophy of education. Many education groups see such a Department as aiding only a few interest groups and the philosophies they espouse. Hence, the education community itself is very much divided on the question of whether a separate Department is wise or not.

The new Department of Education will be very much limited to the concept of narrow, categorical grant programs. The education field has been heavily fragmented into bits and pieces with each bit and piece having its own program and bureaucracy. On those rare occasions when some significant questions are raised, they have fought vigorously and successfully to keep out outsiders, a category which sometimes includes the President and Secretary. But the fights have not always been easy. They perceive, and probably correctly, that with their own Department, they will be further protected from policy forays by outsiders.

CONSOLIDATING EDUCATIONAL FUNCTIONS

One of the standard justifications given for establishing a Department is that such a reorganization will result in the consolidation of similar activities. When the Department of Transportation was established in 1966, a major argument in its favor was that it would consolidate certain similar functions then distributed in various departments and subject them to certain departmentwide policies and priorities. A similar argument was given for the Department of Energy. When the Department of Education bill was considered last year, there was some consolidation of programs and agencies included in the legislation. This year, however, the amount of consolidation is minimal. This is a classic example of elevating a unit within a department to the status of department. The apparent objective is to first establish the Department of Education, and then go after certain of the more vulnerable programs in other departments.

CONCLUSION

The establishment of any department in the executive branch is a major event in our history. It is one that should not be taken lightly. The burden of proof that a new department is needed should be on those who propose the Department. At a minimum they should provide reasonable proof that the agencies currently administering the programs in question are doing so in an inefficient and unacceptable manner and that the problems are not conceptual, but rather organizational. Having proven that, they then should be required to prove in a reasonable manner that the organization they are proposing will address the administrative problems in a way that will lessen or eliminate the problems without foreseeable and improvident consequences. Defenders of the reorganization should be open to discussion of the political and administrative implications of their proposal and not rely solely on the recitation of the age-old litany prescriptions. All proposals are supposed to result in "more economy and efficiency" in Government, elimination of "overlap and duplication," and "greater responsiveness" to the needs of the public.

BENJAMIN S. ROSENTHAL.
JOHN CONYERS, Jr.
HENRY A. WAXMAN
TED WEISS

DISSENTING VIEWS OF HON. TED WEISS

It is claimed that a separate Department of Education would improve management and efficiency, would provide better coordination among education programs, and improve accountability. Yet creation of this Department would separate HEW's education programs from numerous related programs administered by that Department and only minimally increase the consolidation of the separated education programs with programs now in other Departments. It would therefore impair rather than improve coordination of programs that have similar objectives and often the same clients. Moreover, it would tend to diffuse support for the educational and other programs administered by the Department of Health, Education, and Welfare, to the detriment of all those programs.

The proposed Department consists basically of the educational component of the present Department of Health, Education, and Welfare, with a small number of additional programs. Even with the inclusion of the Department of Defense dependent schools and the Indian education programs, the total cost of the programs not currently administered by the Department of HEW will constitute only 3 percent of the total expenditures of the new Department! The majority of the various educational programs administered by the Federal Government, and over 35 percent of the total Federal funding for educational programs will remain outside the Education Department under this bill.

It would appear that the major change that would be accomplished by this bill is that the person in charge of educational programs would have the title of Secretary and report directly to the President, rather than through another secretary. This would be a symbolic accomplishment only, one that hardly justifies the cost and effort involved. And it could not possibly in itself resolve the problems that now exist in education.

A separate Department of Education would face all the same problems that exist in the Education Division of HEW. There would still be numerous educational programs scattered in a variety of agencies and departments; these programs would still have varying programmatic and administrative requirements that are based in their authorizing legislation; and the problems of poor management and communication are not a function of size. These problems will have to be dealt with regardless of whether a separate Department is established.

In addition, there is a real danger that splitting off the education component from the Department of Health, Education, and Welfare may weaken both Departments by diluting the support that the present Department has for its various programs. These Departments thus could become extremely vulnerable to budget cutting efforts and to a variety of outside pressures that could interfere with their effective operation. Standing alone and reduced, they could not effectively reconcile competing interests and set appropriate priorities as well as the current Department of HEW.

A second major concern is the extent to which a separate Department would reduce diversity and initiative and intrude on local educational responsibility. At present, the Federal Government plays an important role in supporting education but it does not prescribe a uniform national standard. Local school boards have primary responsibility for administering our nations' schools, and parents play an important role in setting educational policy. Moreover, the involvement of a variety of Federal and State agencies in education, despite its inefficiencies, has the advantage of encouraging innovation and variety.

There is a serious question whether a separate Department, in seeking to justify itself, will attempt to enlarge its role and try to set a national education policy that would reduce innovation and inappropriately limit local discretion. It is apparent from the proposed bill that this question has not been thought through. The objectives listed in the bill are almost entirely administrative in nature, and there is no clear statement of what substantive changes or improvements in education the Department is intended to accomplish.

Setting up a separate Department would be costly, time-consuming, and disruptive, as are all reorganizations. It would involve a protracted period of uncertainty and confusion as people and functions are shifted. It would distract attention from substantive matters to questions of personnel, office space, and procedures. It would take at least 2 years to complete the reorganization and have a functional Department, and management of educational programs is likely to suffer during this period.

If we really want to improve the management and coordination of education programs, it would make much more sense to deal with these issues directly, within the existing organizational structure, and to avoid the additional disruption and delays that a new department would entail. The coordinating mechanisms in the proposed bill, namely the Interdepartmental Education Coordinating Committee, and the Intergovernmental Advisory Council on Education, could be very useful in this effort, and their establishment need not depend on creation of a separate Department.

Those who support an Education Department are to be commended for the proper emphasis they attach to the importance of education in our society. However, their solution is misguided. What really counts is not the organization chart, or the title of the organization. It is the wisdom of our policies, the caliber of our appointees, and the priority and energy devoted to education. Our attention should therefore be devoted to improving the design and administration of existing programs, and adequately funding them, and we should not dissipate our energy on reorganization. For these reasons, I am opposed to the creation of a separate Department of Education.

TED WEISS.

DISSENTING VIEWS OF HON. PETER H. KOSTMAYER

A multitude of arguments have been raised against the creation of this cabinet level Department.

I will mention an additional two.

First, there should be a compelling Federal need or interest behind the creation of a Cabinet office. In this case, there is none. Education is a genuinely local phenomena in America. It serves a local constituency, is funded and administered locally and derives its political power from locally elected school boards or State boards and regents.

Given this, the creation of a national educational power structure serves no effective purpose. This is simply a cosmetic action—a response to the politics of the problem, not the problem itself. I don't believe, nor do I think the American people are going to believe, that this new Department will improve the quality of education in the classroom.

Secondly, I am troubled at the suggestion that education will be aided by the centralization of authority and ideas. Given the size and diversity of our Nation, I believe the interests of education are best served through a decentralized system. Education in the United States should not be represented by a single agency.

By centralizing authority, this Department will represent a subtle—yet definite—threat to academic freedom. It will be a formidable layer of bureaucracy for educators to contend with, as well as a platform for Federal policymakers to impose their views, however benign their intent.

I urge the defeat of this well-intentioned, but unsound proposal.

PETER H. KOSTMAYER.

Dissenting Views of Hon. John N. Erlenborn, Hon. Benjamin S. Rosenthal, Hon. Peter H. Kostmayer, Hon. John W. Wydler, Hon. Clarence J. Brown, Hon. Paul N. McCloskey, Jr., Hon. Thomas N. Kindness, Hon. Robert S. Walker, Hon. Arlan Stangeland, Hon. M. Caldwell Butler, Hon. Jim Jeffries, Hon. Olympia J. Snowe, and Hon. Wayne Grisham

When the House considers H.R. 2444, to create a Cabinet Department of Education, Members should consider carefully what they are being asked to support. We believe establishment of a Department of Education would be unfortunate. It is clearly:

Bad education policy: further eroding local control over education policy, politicizing education at the Federal level, and thus, damaging the educational opportunities of our children.

Bad Government management policy: exacerbating Government organizational tensions, bleeding the patient in hope of eliminating the disease.

Granted, neither the administration nor many Members of Congress who support this bill intend these results. Yet, the dynamics of the Federal bureaucracy foreordain them.

I. Bad Education Policy

The great strengths of American education are its diversity and freedom from partisan politics. Diversity has fostered the intellectual vitality that has made our educational system the most democratic and advanced in the world, the envy of other nations. It has allowed parents and students—the consumers of education—a wide spectrum of choice in determining what type of schools are best for them, as well as an opportunity to affect those choices at the local level. Freedom from partisan politics, achieved through a dispersal of responsibility over education in local school boards and school committees, State boards of education, college trustees and university regents, has permitted education policy to be debated on its merits and consensus solutions to receive wide bipartisan support.

Creation of a Department of Education, we fear, would eliminate these two strengths. It would supplant diversity and freedom from partisan politics with centralized Federal direction and policymaking by partisan whim. Dr. David W. Breneman, a senior fellow at the Brookings Institution, said in testimony before our committee:

> The fundamental issue that concerns many of us who oppose the department is this: Do we want education to become more of a Federal responsibility? Do we want students, teachers, parents, administrators, local schoolboard members, and state officials turning more and more to Washington for leadership and guidance—not to mention increased financial support—for education? Do we want to risk diluting the

> Federal emphasis on aid to the poor and disadvantaged by broadening the area of Federal concern for education? Do we want to politicize education at the national level by creating an office that will become the focal point for partisan efforts, with the ideological course shifting with every change of Presidents? Regardless of the qualifying and limiting language built into the legislation, a vote for the Department is to answer each of these questions implicitly with a "Yes."

The nature of Federal aid to education is in the form of categorical grants, with each program having its own eligibility criteria, matching funds requirements, and so on. Education policy, however, still is largely formulated at State and local levels. Federal aid to education is generally supportive of local and State initiatives and is not policymaking, per se. A locality which dislikes a particular program's regulations need not accept Federal money.

If the Federal Government's role in education is to continue to be supportive, a Cabinet Department is unnecessary. Cabinet Departments are established to enunciate an overriding national responsibility, such as defense, energy, and transportation. Never before has a Cabinet agency been created for providing merely a support role. Never before has the Federal Government deemed education an overriding national responsibility.

What is really at stake is not the neatness of governmental reorganization but rather basic education policy, not the straightness of the lines on the tennis courts, but rather the game of tennis itself. Make no mistake about it; that is what Department advocates mean in complaining that the United States is the only major Nation without a Ministry of Education. Indeed, a spokesman for the National Education Association, the principal proponent—and benefactor—of this legislation, has said: "Making education the defining element of a Cabinet-level Department is essentially to authorize the creation of a Federal policy for education itself."

What are the consequences of designating the Federal Government to be the principal policymaker in education? First, regardless of our philosophical views about categorical aid as a vehicle for disbursing Federal funds, creation of a Cabinet Department of Education locks in categorical aid as a funding approach. In effect, it prejudges the question of alternative mechanisms. After all, no Cabinet Department will foster the diminution of its authority. The central purpose of this Department—the foundation of its authority—is to be the management of categorical aid programs. It can continue to justify its existence only by resisting alternatives to categorical aid, such as block grants or education revenue sharing. Computers in the Treasury Department could spit out checks. The countless legions of regulation writers employed by the Department to dictate precisely how localities and States must use the Federal education largesse would no longer be needed under these latter approaches.

Locking in categorical aid as a funding approach provides a concrete foundation for the second consequence of designating the Federal Government the principal policymaker in education: More rules and regulations, more Federal decisionmaking in education, and thus, a further erosion of local control over education.

The administration argues that the new Department will streamline education programs by reducing over half the organizational boxes through which an education regulation now must pass prior to promulgation. What better prescription for more regulations. Senator Moynihan in testimony against H.R. 2444 said:

> If you assume there is so much energy in the system and the output is a function * * * of the time and energy it takes to do something * * * the less energy it takes the more output you will get * * * If you can become more efficient in the production of regulations, you will produce more of them.

The Federal Government's regulatory tentacles already reach everywhere. They envelop the distribution of all Federal funds, preempting decisions by individuals and State and local governments. Responsibility now rests with anonymous bureaucrats in Washington. This shift of political power destroys political accountability. Is it any wonder that our citizens have felt increasingly powerless and alienated by Government?

Clearly, a Department of Education is part of this same process of destroying political accountability. It would signify a major redirection of education decisionmaking in the "Trojan Horse" of Government reorganization. The victims would be our children. They would suffer the consequences of an educational system in which most decisions will be made by the Federal Government at the expense of locally elected schoolboards and State education departments. Gone will be the richness of the diversity and initiative that our decentralized school system embodies.

To the extent the Federal Government can aid education, this bill holds no promise for the future. In testimony before our committee, Marian Wright Edelman, director of the Children's Defense Fund, said:

> Unless proponents can present convincing evidence that a new bureaucratic superstructure will enhance the quality of Federal education programs, the department is an inadequate response to the critical educational needs of the Nation's children. Education should be a major focus for those committed to our children and our future. Is the proposed reorganization the way to achieve this? The case is not made.

II. Bad Government Management

Not only would creation of a Department of Education make categorical aid the prime mechanism for education, but it would represent yet one more addition to an already expanded Cabinet, making the President's job more difficult by requiring him to listen to more diverse interest in the White House and to adjust these differences in his Cabinet. For this reason, it is more organizationally responsible to resolve disputes, for example, between health, education, and welfare, at the Cabinet level rather than at the White House.

This principle has been a guidepost of Government management for decades. Indeed, a Department of Education is contrary to the recommendations of every Presidential Government reorganization commission under both Democratic and Republican Presidents since and including the Hoover Commission which issued its report in 1948. The

Hoover, Heineman, and Ash Commissions were of the uniform opinion that Presidents should have fewer Cabinet heads reporting to them. President Johnson's Heineman Commission recommended specifically against a Cabinet Department of Education:

> We urge resistance by Presidents to the perpetual pressures to create more executive departments and independent agencies. Unchecked, these pressures to widen the President's span of control will eliminate the possibility of meaningful direction from and contact between the President and the major line officials of his administration. We do not believe that either the Nation or the President can afford today or in the future to waste the President's major line deputies in the running of interference or errands for narrow groups. We believe that Presidential line subordinates who must reconcile competing special interests will be far more useful and much more responsible to and representative of Presidential perspectives and objectives than the scores of parochial Department and agency heads who now share the line responsibilities of the executive branch short of the President * * * To improve the management of domestic programs, we recommend that the President resist proposals to create additional departments likely to be dominated by narrow specialized interests or professional clientele such as health or education.

The inclusion by the Heineman Commission of health with education leads to one more drawback to creating a Department of Education: It is in reality only the first step toward dismantling HEW. If education deserves its own Department, then by extension of the rationale, so, too, does health. By default, then, welfare will also have its own Department. To those Members who consider this possibility farfetched, there are many among us who are astounded a separate Department of Education has received serious consideration. A Department of Health, like a Department of Education, is but a mere campaign promise away.

To those who believe a Cabinet-type Department of Education guarantees more attention by, and access to the President, we suggest Presidents listen to whomever they please. If there are pressures to raise the Federal ante for education, these forces operate independently of formalized governmental structures. Look at the fiscal 1978 education budget: Buried deep in HEW, presumably ignored by a Secretary of HEW too busy toiling in his health and welfare shops, the President proposed a 50-percent increase in the education budget, and Congress approved a 30-percent increase. The conclusion is unmistakeable: A Cabinet Department of Education is not necessary to increase Presidential concern, or Federal funding for, education.

To those who believe education's importance in our society justifies Cabinet status, we agree education is important, but so, too, are a myriad of other concerns. Such management philosophy rewards one special interest group over others, echoing the fears of the Heineman Commission. The structure of Government should reflect management decisions and not the spoils of interest group politics.

To those who argue that this bill will better coordinate Federal education programs, we would point out that, of the programs identified by the Office of Education in its Catalog of Federal Education Assistance Programs as education programs not now located in HEW's Education Division, only 4 percent, with less than 1 percent of the budget, would be transferred to the Department under this legislation. The committee's amendment of the bill to include Indian education programs raises these percentages only slightly. Ninety-six percent of the programs now outside HEW would thus remain outside the Education Department, and coordination among them would be illusory with a Department of Education as without it.

That so few education programs are included should be of little comfort to those whose pet programs, by hard lobbying, have been kept out. This bill is, after all, a necessary first step. Affirmative legislation is necessary to create a Cabinet Department. Once created, however, the President, through Executive order and reorganization plan, can move more programs in without affirmative legislation. These groups should heed the words of Senator Ribicoff, the Department's chief Senate proponent: "The new Department will represent a sound base upon which to build new initiatives and consolidate, in the future, more scattered education programs."

While either House of Congress has the authority to disapprove a reorganization plan, in the past 17 years, only one has been rejected. Of course, by definition, Congress can disapprove Executive orders only by affirmative legislation. Hope for a necessary consensus in Congress for either action of disapproval is a weak reed on which to base one's optimism that a vote for the Department today will not be a haunting mistake tomorrow.

To those who believe a Department of Education will streamline education programs by reducing the steps needed for promulgating regulations, we would remind them of our response and of Senator Moynihan's comments on this issue mentioned above.

Those who stand to gain by this Department are the NEA and the other professionals representing education groups, and those in certain industries who profit from the programs. Children will not benefit. This educational-industrial complex need not answer to the American people who will complain about Federal domination of education policy, erosion of equal educational opportunities, and simply inefficient Government. We in Congress will be their targets—and justifiably so—for Congress will be diagnosed as the source of this pathology. Let it be said, this Congress was warned.

JOHN N. ERLENBORN.
BENJAMIN S. ROSENTHAL.
PETER H. KOSTMAYER.
JOHN W. WYDLER.
CLARENCE J. BROWN.
PAUL N. MCCLOSKEY, JR.
THOMAS N. KINDNESS.
ROBERT S. WALKER.
ARLAN STANGELAND.
M. CALDWELL BUTLER.
JIM JEFFRIES.
OLYMPIA J. SNOWE.
WAYNE GRISHAM.

DISSENTING VIEWS OF HON. PAUL N. McCLOSKEY, JR.

I concur in the views of my colleague, Mr. Erlenborn, but would like to add a few words in opposition to creating a new Cabinet-level Office of Education. One of our major goals today is to cut down the size, cost and complexity of Government. We seek, wherever possible, to assign one task of Government to one level of Government. A local school board, a county board of education, and a State department of education is enough. The present collection of functions and offices in the Office of Education are no more than distributors of checks or minor functionaries to assist local and State educators. It is almost bizarre to consider elevating these functions to Cabinet level.

Whenever excellence in education has been achieved, it has usually been through individual teachers or schools at the local level. To my knowledge, the Federal Government has never created nor caused excellence in education. The Federal Government is not, nor should it be, more than a coordinator, a furnisher of funds or an enforcer of equal educational opportunity. None of these functions deserve Cabinet status, and there has been no showing to our committee that Cabinet status will be beneficial.

From discussions with leading educators in my own State and district, it is freely conceded that the real intent behind the new Cabinet office is to obtain, down the road a piece, a larger commitment of Federal funds to local education. A Cabinet Secretary is viewed as a new national "voice" for this purpose, not as a necessary administrator of Cabinet-level policy determinations. Indeed, all proponents of the new office are careful to say that the new Secretary will not be making any policy decisions.

I would respectfully submit that if no policy decisions are involved (and all of us agree that the Federal Government should not make education policy) it is inappropriate to add to an already bulging Cabinet a new Secretary with no function for policy advice to an already overburdened President.

Paul N. McCloskey, Jr.

DISSENTING VIEWS OF HON. ROBERT S. WALKER

The Department of Education, as conceived in this piece of legislation, contains one basic fatal flaw which makes it unacceptable in any form. The fatal flaw is that the bill has as its basic premise the assumption that Washington knows best what should go on in this Nation's schools. That is a bad basic concept which cannot be amended into acceptability.

Beyond the problem with the basic premise of the bill, there are some specific problems which anyone considering this legislation must understand.

First, in establishing such a Federal Department we are taking a major first step in the direction of Federal control of education. Despite the inclusion of wording prohibiting Federal control of education, the bill contains this seemingly important and necessary provision:

> There is a need for improvement in the management of Federal education programs to support more effectively State, local and private institutions in carrying out their educational responsibilities.

Yet the power to manage is the power to control. Federal money dispensed by a Federal Department will not come independent of Federal control. In other words, this bill pays lip service to the concept of locally based education but really means strict attention to honing the mechanisms of Federal power.

Second, it is said that this bill is a reorganization of educational effort which will result in more effective and efficient delivery of services and, therefore, less bureaucracy. The record is clear that this statement cannot be justified. The Department, from the outset, will contain 90 new supergrade and executive positions at an average salary of $50,000 each. In other words, $4.5 million of money "for education" will go to pay many highly paid bureaucrats. Each of those bureaucrats will require, most certainly, a strong infrastructure beneath them to justify their existence and, therefore, will be the nucleus of an every expanding Federal buraucracy that produces an ever expanding flow of paperwork burdens for every school in the country.

Third, it is said that the Department of Education will promote education's future in this country. Yet, it is clear that what the Department will do is discourage educational innovation. The experience of two centuries of education in the United States reveals that its strength has been in diversity. But with the creation of a new Department of Education, we are substituting for that strength the idea that Federal mandates will produce better schools. In addition, by creating a Department of Education, we are ruling out one of the more innovative ideas on how Federal money could be used to promote better local schools; namely, the block grant concept.

Most educators agree that the best way to handle Federal money would be to increase the amount of discretion which local school districts have to spend their Federal dollars. That is the basis of the block grant concept—a concept which no Department of Education could accept because it would mean elimination of its basic function.

The creation of the Department of Education presents very serious fundamental problems. To agree with the idea of this new Department, one has to believe that Government is the best when it is bigger. One has to agree that a more expansive bureaucracy will not be a more expensive bureaucracy. One has to agree that learning should ultimately be a function of Federal thinking. And one has to agree that educators are looking to Washington for educational leadership. Certainly, the proponents of this Department do not state their case in these terms but the essence of their argument is summed up on such a set of premises. If one has doubts about the validity of these maxims, one must have serious doubts about the creation of this Department.

Robert S. Walker.

Union Calendar No. 73

96th CONGRESS
1st Session

H. R. 2444

[Report No. 96-143]

To establish a Department of Education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 27, 1979

Mr. Brooks (for himself, Mr. Fascell, Mr. St Germain, Mrs. Collins of Illinois, Mr. Preyer, Mr. Drinan, Mr. English, Mr. Fithian, Mr. Matsui, Mr. Perkins, Mr. Thompson, Mr. Davis of South Carolina, Mr. Akaka, Mr. Baldus, Mr. Bedell, Mr. Blanchard, Mr. Boner of Tennessee, Mr. Bonior of Michigan, Mr. Bonker, Mr. Bowen, Mr. Brodhead, Mr. Buchanan, Mr. Carr, Mr. Cavanaugh, Mr. Corcoran, Mr. Corman, Mr. Corrada, Mr. Daschle, Mr. Derrick, Mr. Dixon, Mr. Dodd, Mr. Edgar, Mr. Fazio, Mr. Foley, Mr. Ford of Tennessee, Mr. Ginn, Mr. Gore, Mr. Gudger, Mr. Harris, Mr. Heftel, Mr. Holland, Mr. Jenkins, Mr. Jenrette, Mr. Jones of Tennessee, Mr. Kildee, Mr. Kogovsek, Mr. Lowry, Mr. McCormack, Mr. Markey, Mr. Marriott, Mr. Mikva, Mr. Neal, Mr. Nolan, Mr. Patterson, Mr. Pritchard, Mr. Quillen, Mr. Rahall, Mr. Ratchford, Mr. Rose, Mr. Shannon, Mr. Smith of Iowa, Mrs. Spellman, Mr. Stump, Mr. Swift, Mr. Traxler, Mr. Udall, Mr. Ullman, Mr. Vento, Mr. Weaver, Mr. Whitley, Mr. Wirth, Mr. Wolpe, and Mr. Young of Alaska) introduced the following bill; which was referred to the Committee on Government Operations

May 14, 1979

Additional sponsors: Mr. Leach of Iowa, Mr. Dicks, Mr. AuCoin, Mr. Marks, Mr. Pease, Mr. Synar, Mr. Alexander, Mr. Young of Missouri, Mr. Davis of Michigan, Mr. Fuqua, Mr. Horton, and Mr. Williams of Ohio

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May 14, 1979

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To establish a Department of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

Section 1. This Act may be cited as the "Department of Education Organization Act".

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Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the

Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) the primary responsibility for education resides with States, localities, and private institutions;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs; and

(7) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Sec-

retary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

(d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

Sec. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The

Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the di-

rector of which shall be one of the officers appointed under section 202 of this Act.

GENERAL COUNSEL

SEC. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of

the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Higher Education Act of 1965;

(D) under the Education Amendments of 1978;

(E) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) under the National Defense Education Act of 1958;

(G) under the Education of the Handicapped Act;

(H) under part B of title V of the Economic Opportunity Act of 1964;

(I) under subparts I and II of part C of title VII, and part B of title VIII of the Public Health Service Act;

(J) under the National Commission on Libraries and Information Science Act;

(K) under the Vocational Education Act of 1963;

(L) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(M) under the Model Secondary School for the Deaf Act;

(N) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(O) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(P) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4)(A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(7) the Advisory Council on Education Statistics and all functions vested in such Council; and

(8) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President

may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education; (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the National Science Foundation, for coordinated planning and operation of the science education programs described in subsection (a), including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the National Science Foundation Act of 1950 to initiate and conduct programs.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law

Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 307. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories required by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of *this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.*

(c) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

EFFECT OF TRANSFERS

SEC. 308. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 208 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by section 208 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in

excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of title 5, United States Code.

(e) Notwithstanding the transfer of functions effected by section 303 (and the consequent transfer of personnel), personnel performing such functions shall be treated, for purposes of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

REDUCTION OF POSITIONS

SEC. 403. Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time permanent positions that perform functions to be transferred to the Department by this Act shall be reduced by 450 and thereafter the number of such positions shall not be increased by more than 50 in any one year except by law enacted after the date of enactment of this section.

EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION ON POSITIONS

SEC. 404. None of the limitations or computations required by section 403 shall be applicable to any individual employed pursuant to section 209 as a teacher, administrator, clerk, or secretary in an overseas school.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or offices vested by this Act in any organizational unit or component.

RULES

SEC. 424. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1) and (2), 302, 303, 304, 305, and 306 of this Act.

CONTRACTS

SEC. 425. Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises

of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in

advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions. Such report shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 425 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appro-

priated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

Sec. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

Sec. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

ALTERNATIVE ADMINISTRATIVE STRUCTURES WAIVER

Sec. 439. Notwithstanding any other Federal law which provides that a single State or local government, department, agency, multimember board or commission, or other organizational unit, or specific officer within a department, agency, multimember board or commission of State or local government, must be established or designated to administer any grant-in-aid program of the Department, upon certification by the appropriate executive or legislative authority of the State or local government responsible for determining or revising the organizational structure of such government that such provisions prevent the establishment of the most effective and efficient organizational arrangements within the State or local government, the Secretary may waive such provisions and approve other State or local administrative structures or arrangements, when he determines that the objectives of the Federal statute authorizing the program will not be thereby endangered.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

Sec. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended bal-

ance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive *compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.*

(c)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or

portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect;

shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by 14.

(d) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(e) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(f) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(g) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (5).".

(h) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and

other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 432(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(j) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services,".

(k) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection [illegible](1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the 'principal officer')," after "the 'Assistant Secretary'),";

(2) by striking out "chairman" in such subsection and inserting in lieu thereof "co-chairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education,"; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education.".

(l) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary not later than February 1 of each year.".

(m)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and

who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

(n)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesig-

nated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

SEC. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the

Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, THURSDAY, JUNE 7, 1979 No. 73

House of Representatives

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 299

Resolved, That upon the adoption of this resolution is shall be in order to move, sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking

time as I may consume.

(Mr. DODD asked and was given permission to revise and extend his remarks.)

Mr. DODD. Mr. Speaker, House Resolution 299 provides for the consideration of H.R. 2444, the Department of Education Organization Act. This resolution provides for an open rule with 3 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

In addition, the rule waives points of order under sections 401(a), 401(b)(1), and 402(a) of the Congressional Budget Act to which the bill would otherwise be subject. Section 401(a) provides that it shall not be in order to consider any bill which provides new contract authority unless that bill also provides that such new contract authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in

against the committee amendment for violation of sections 401(a) and 401(b)(1) of the Budget Act and clause 5 of rule XXI of the rules of the House which prohibits consideration of appropriations matters in an authorization bill.

Finally, the rule provides that after the passage of H.R. 2444, the House shall take up consideration of S. 210, and it shall be in order to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions of H.R. 2444 as passed by the House. The rule also waives points of order under sections 402(a) and 401(b)(1) against the consideration of S. 210.

Mr. Speaker, I rise today in support of H.R. 2444, a bill to establish a Cabinet-level Department of Education. Education needs and deserves high-level visibility, leadership, and attention at the national level. It should be beyond question that education is too important to the economic and social well-being of minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of sections 401(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2444, the House shall proceed, sections 402(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 210, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2444 as passed by the House.

☐ 1520

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for the purpose of debate only, pending which I yield myself such advance in Appropriations Acts. Various provisions of H.R. 2444 could be construed to provide new contract authority; however the Committee on Government Operations plans to cure this Budget Act problem by offering an amendment on the floor to make all contract authority in the bill subject to the appropriations process. With this assurance, the Budget Committee has agreed to this waiver.

Section 401(b)(1) provides that it shall not be in order to consider any bill containing an entitlement provision effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. Since certain new entitlements provided in this bill could become effective before October 1, 1979, the bill would be subject to points of order under this Budget Act provision.

Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of such fiscal year.

I understand that the Committee on Government Operations intends to offer an amendment to the bill making the effective date October 1, 1979, and thus curing the Budget Act problems regarding sections 401(b)(1) and 402(a). As a result, the Budget Committee has agreed to these waivers.

This rule also makes it in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. The rule also waives points of order that might be brought this Nation to be left to the fragmented programing that now exists in some 40 departments, bureaus, and agencies. Nearly one-third of our total population is directly involved in education—some 60 million students, teachers, administrators, and other school personnel in public and nonpublic institutions. Given the numbers of people impacted by our educational system and the historical importance education has played in the founding and growth of our country, I believe that this new Department will elevate the status of education at the Federal level and give it the critical attention it so badly deserves.

H.R. 2444 will consolidate approximately 160 existing programs involving some 24,000 Federal employees. This bill will only consolidate existing programs and no new programs are created or authorized by this legislation. This bill provides for the inclusion of the following existing programs into the new Department of Education: the Education Division of HEW, including approximately 150 elementary, secondary, and postsecondary education programs and research activities; the education related activities of the Office of Civil Rights (OCR) including a provision which would elevate the Director of OCR and require a report be submitted to Congress detailing efforts toward compliance and enforcement; and health, nursing, and law enforcement student loan programs. This bill will streamline and coordinate a number of programs related to education which have up to now existed independently without any intergovernmental coordination.

Mr. Speaker, opponents of this bill have discussed in wildly exaggerated terms the detrimental impact a Department of Education would have on State and local control of educational policy. The rights and control of educational policy rests with the States and I would like to make it clear that the intention of this legislation as I support it—is to provide an administrative structure which is simpler and better able to respond and assist State and local communities. This bill specifically prohibits Federal intrusion in the determination of State and local needs and policies. The Federal role is clearly limited and specific.

The primary role of the Federal Government is to promote equal educational opportunity for all Americans through the support of locally designed programs. Presently, the administrative structure that exists is so deeply submerged within HEW that it is unable to be as responsive to the needs of State and local educational policymakers.

We, the Congress, are keenly aware of the fact that the American people are deeply distressed and frustrated with the manner in which much of their tax dollars are being spent. Waste and duplication exist in many programs and it is clear that education programs are not excluded.

Today we have before us a plan, which would address this problem—we have an opportunity to reduce the waste and duplication that exists—we have an opportunity to streamline our educational programs at a Federal level and provide a much improved administrative structure which can more effectively respond

Rather, it should be out and into a Cabinet-level department where the Secretary of Education would answer directly to the Congress of the United States. When an education problem develops, you would not have to go through the cobwebs of those who would daydream, and cause a nightmare for us, in HEW. Bringing it out to a Cabinet level and putting into it the emphasis which it deserves is a good thing, Mr. Speaker. It not only is a good thing, but it would save the taxpayers money. It would reduce those now in Education by some 350 or 400 positions, saving a total of $19 million, and others estimate up to $100 million of taxpayers' money to do the job that must be done here if this bill passes today. And it will be enacted into law by a big majority. The Senate has already passed it by a vote, I believe of 72 to 21.

I am most anxious for the debate to occur on the floor of the House.

Mr. Speaker, I have had letters from friends of mine from the district, letters generated by those who oppose this measure, asking people to contact me, knowing that I am for the measure. They say that they want no more layers of bureaucracy. I say today that I, too, do not want any more layers of bureaucracy. I do not want to see another cabinet level department like the Energy Department, which has more employees today than many other agencies, running over each other, not knowing what to do and with no direction. But that is not true here.

We bring the Office of Education out

He went on to say:

> Reorganization is deemed synonymous with reform and reform with progress. Periodic reorganizations are prescribed if for no other purpose than to purify the bureaucratic blood and to prevent stagnation.

He concluded in this first paragraph by saying:

> Rare indeed is the Commission or Presidential task force with the self-restraint to forego proposing an organizational answer to the problems which it cannot solve.

In yesterday's New York Times, on the op ed page, there was an article by the Director of the Office of Management and Budget, one of the proponents for the creation of the Department of Education, in which he cites as the main thrust for creating a new department in the United States of America the following:

> Every decision made by HEW's Office of Education must also be approved by as many as 14 other offices. The same elaborate procedures apply whether the matter involves a routine regulation or a broad policy question involving budget and legislation.
>
> Shifting HEW's education programs to a separate department would establish a lean, flexible administrative structure. It would roughly cut in half the time required to process important budgetary, legislative or regulatory matters. It would permit the direct elimination of 450 Federal positions, saving taxpayers $19 million annually.

Let me tell the Members something interesting. Every one of the things that Mr. McIntyre wants to achieve could be achieved by Executive order. They could to the needs of the millions of students, teachers, and educators of this Nation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

(Mr. QUILLEN asked and was given permission to revise and extend his remarks.)

Mr. QUILLEN. Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. DODD) for his fair appraisal of the resolution now before us and his comments on the bill itself.

Mr. Speaker, I rise in support of the resolution and also in support of the bill to be discussed on the floor of the House. My credentials against Federal involvement in education are well known. I have fought Federal encroachment in that regard to insure that the Federal Government has no control of what goes on in the classrooms ever since being a Member of Congress from the First District of Tennessee. I am convinced that this bill does not provide any Federal encroachment in the classrooms or against our local and State control of education. As a matter of fact, there is a prohibition in the bill itself that says that the Secretary or any of his high-level Department heads cannot have any interference whatsoever in what is going on in the classrooms. We must forever protect our local and State control of education.

With that in mind as a backdrop, Mr. Speaker, I think it is a fair and appropriate thing to do to take the Office of Education out of one of the most bureaucratic departments in Government, where the Office of Education does not respond directly to the Congress, to the Members of this House.

on its own with the people who run it, the people who would answer directly to the Congress of the United States. It is a good thing.

Mr. Speaker, I urge the adoption of the resolution and reserve the balance of my time.

☐ 1530

Mr. DODD. Mr. Speaker, I yield 11 minutes to the gentleman from New York (Mr. ROSENTHAL).

(Mr. ROSENTHAL asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Speaker, I found the arguments of the gentleman from Connecticut (Mr. DODD) and the gentleman from Tennessee (Mr. QUILLEN) very interesting. I do not know what bill they are talking about. It certainly cannot be the bill to create a Department of Education because the assertion that anybody will save any money by the passage of this bill certainly is not supported by the facts.

Mr. Speaker, in a book published some years ago by Harold Seidman, who is a nationally recognized expert on Federal reorganization and dynamics of the Federal bureaucracy, a book called "Politics, Position, and Power," he said the following:

> Reorganization has become almost a religion in Washington. It has its symbol in the organization chart, old testament in the Hoover Commission reports, high priesthood in the Office of Management and the organization chart, old testament in the faith in sundry groups such as the Citizens Committee for Government Reorganization.

today create in the Department of Health, Education, and Welfare an Undersecretary for Education by reorganization plans. Everything that they assert is a necessary requirement for smooth and efficient management could be achieved by not only a much simpler method but by a much more responsive method.

Since this country was founded some 200 years ago, 14 Cabinet departments have been created, 3 by President Washington during his 2 terms and the other 11 during a long, long period of 190 odd years.

The creation of a department in this country is a very, very serious matter, and it should not be taken lightly. It should not be done because of the whim and capriciousness of Government reorganizers who have nothing else to do but to assert that the role of reorganization is paramount to the efficient operation of Government.

Indeed there should be reorganization when the overwhelming case has been made. In the years that I have been on the committee, we have considered three new departments. The burden of proof must be on the proponents who urge the reorganization. In this case it is the most minimal, abysmal proof I have ever seen; it is virtually nonexistent.

The important thing to consider, if one is serious about congressional responsibility, is that this Department runs counter to every theory of good management and restructuring of Government.

I know that many of us suggest that, "Well, the President is the Chief Executive of the administration, and he should be primarily responsible for housekeeping functions." That is to a very modest extent true. The role Congress plays, albeit we have established 14 departments in 200 years, is a much more serious role because we must act with guarded care, and we do not create departments lightly.

Let me tell the Members that we have had three major commissions, the Heineman Commission appointed by President Johnson in 1967, the Hoover Commission, and the Ash Council appointed by President Nixon in 1971, and they all said the same thing, that there should not be, if we are a believer in the administrative management theory, more departments but fewer departments. We should not increase the number of people reporting to the President to confuse his decision-making process, but we should build pyramids and we should not create departments of single-issue constituencies.

This Department as proposed is the first department in the history of the country that has as its sole and exclusive responsibility the giving of grants. There is no national education policy in the United States. It says in this bill that the Department cannot create one. We are creating a single-issue, a single-constituency department whose only purpose is grants in aid. It is almost, on the face of it, an absurdity.

What the Heineman Commission said to President Johnson in 1967 was: "Cut down the number of departments to six. Don't increase them. Cut them back to six."

The Commission suggested creating a

fare, and if the educators get their own department, how soon will it be before the physicians and the medical profession also demand a department of their own?

If that comes to pass, which it will if this department passes, the social, welfare and income maintenance groups would by default have their own department.

So what we are offered today is not the opportunity to create one new department but to create in fact three departments. That is the inevitable residual outcome of this kind of consideration. HEW was created so that the Secretary could consider policy, program, and budgetary priorities on a broad scale. The first tier of compromise and accommodation is within the Department, not between the departments.

Let us look at the Cabinet table. How many additional persons do we want to add to the Cabinet table to give the President advice? How many additional ones should there be?

The President should be insulated from additional narrow, parochial, constituency-oriented secretaries so that he or she can have the opportunity to deliberate and think about the major issues: Inflation, energy, war and peace. The budgetary requirements for education, for welfare and for health should be resolved at a much lower level.

I would urge all the Members to read seriously the arguments made and the many editorials written by the Washington Post and the New York Times. The Washington Post on Monday and Tues-

nitty-gritty and consider the facts on the floor of the House when the bill is before us, we find a savings of millions of dollars, the elimination of 350 to 400 personnel, with a mandate in the bill that after the first year no more than 50 can be added, to me this makes sense.

Mr. Speaker, I yield 8 minutes to the gentleman from Illinois (Mr. MICHEL).

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, last week I received a letter on White House stationery. It was from Frank Moore, Assistant to the President for Congressional Liaison. The letter stated, and I quote:

> The President believes passage of the (Department of Education) bill will represent the single most important achievement in the field of education in this decade.

Attached to the letter was a six-page fact sheet, filled with facts and statistics about the new Department. There were also organizational charts showing how the Department would work.

I read all of this. And after I finished I thought to myself: In all of this material there is one word that is not mentioned at all. There are words like "consolidate," and "efficiency" and "budget" and "participation." But the one word that does not appear is the most important word of all in education.

That word is "children."

The basic question concerning the proposed Department of Education is this: How is the third-grader in Peoria or the high school senior in San Diego or the

Department of Social Services, including HEW, the VA, OEO, EEOC, and the Manpower programs, creating a Department of National Resources and Development, including Agriculture, the Interior, and the Army Corps of Engineers, creating a Department of Economic Affairs, with Treasury, Commerce, and Labor, creating a Department of Science and Environmental Preservation, and creating a Department of Foreign Affairs and a Department of National Security Affairs.

They said that the pyramid should "presidentialize" the management functions, and we should never, never create a department for parochial and political interests.

The Ash Council in 1971 said the same thing. They said we must move away from the rather narrow constituency-oriented, traditional departments toward broader functional and general-purpose departments.

And they said further: "Departments should have as their objective the achievement of certain policies, not merely the maintenance of relatively narrow programs," and we should remember this if we are to take our responsibility seriously, "the Secretary should not be faced with a single set of interest groups but rather should have a sufficient number of competing interest groups so he is not beholden to any single set of groups."

And there is another important consideration, if we are to take this thing seriously, which I have grave doubts about, and that is this: The proposal to establish a Department of Education is really a proposal to dismantle the Department of Health, Education, and Wel-

day of this week wrote two separate editorials. On Monday they said, "It's a bad idea." On Tuesday they said, "It's a bad idea—continued."

Never in the history of this country has there been such a narrow, single constituency interested in a department. I am not concerned with the motivations behind those who bring this proposal to the floor, but I urge all my colleagues to take seriously their responsibilities to the organizational structure of our government. They have a dual role with the Executive; it is an equal and perhaps a predominant role to that of the President of the United States.

We are voting and legislating for all time, and I would urge all my colleagues to go very slowly and very cautiously. This is the 15th time in our history that a proposal of this kind has been before the Congress of the United States.

□ 1540

In my judgment, it is the worst proposal. What we should be doing is eliminating and merging existing departments.

The one good proposal that the Office of Management and Budget came up with to create a Department of Natural Resources is not being sent to us because the political climate does not suggest that that proposal would receive a warm welcome here.

I would urge all of my colleagues to take their oath of office and their responsibility seriously and to vote down this proposal at the appropriate occasion.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we get down to the kid with a reading problem in Detroit going to be helped by this new Department? That is the question. And the answer to that question is the sound of silence. They would not be helped.

American children are the truly forgotten ones in the debate over this Department. Some professional educators talk about supposed efficiency. The Government bureaucrat talks about reorganization charts. The big education lobby talks about more political clout.

But nobody talks about children.

They are the ones education is supposed to be all about. The administration and the bureaucrats and the lobbyists have forgotten them. We talk proudly of billion-dollar Federal education programs. We ignore the numerous studies that show those programs very often do not help kids very much. We speak in ringing rhetoric about how much we in Congress want to do for "education"—quote, unquote. But in looking at the big, billion-dollar picture we have forgotten the individual American student.

But, still, you may say to yourself: At least this new Department is something different. Maybe it will reverse the recent trend of low test scores, an functional illiteracy and a host of educational ills that have brought American education more criticism now than at any time in its history.

If that is what you think, you are wrong. We are going to be handing over a brand new department to those whose educational philosophy either contributed to or was unable to stop this decline.

This new Department will not start anything new. It will simply solidify, institutionalize, and perpetuate the old, tired, discredited, weary, stale, flat, and unprofitable array of education innovation and social experiment we have been conned into believing helps kids.

If you are looking for the real enemies of education, do not look at those who oppose this bill, look at the special interests, the vested interests, the politicians and the bureaucrats who for many years have made a lucrative career out of spending tax dollars for innovations and experiments that do nothing except make special interest groups powerful and manufacturers rich. And they are the ones who will own this Department.

A vote for this Department is a vote for the educational-industrial complex, the single most powerful and politically militant lobby in America.

Do you really want to do something new and exciting and useful in education? Do you really want to help kids? Then let us vote against this Department and start a real revolution in this Congress. Let us sweep away the cobwebs and the educational cliches of two decades and start to find how and why and where and how often we can help individual children over a long period of time. We can do that without a new department.

You may have made a promise, in good faith, that you would support the concept of a new department. That is understandable. It sounds all right. How could it do any harm? It might even do some good. Or so you might have thought.

But think about it again for a moment. We are not talking about simply a new program or a new policy or a new addi-

Mr. MICHEL. I yield to the gentleman from Illinois

Mr. HYDE. Mr. Speaker, the gentleman said that these promises that this agency is not going to grow have been made. Is that true?

Mr. MICHEL. That is what they tell us.

Mr. HYDE. They tell us that it is going to consolidate and it is going to eliminate a lot of superfluity in Government and it is not going to grow.

Mr. Chairman, I would like to direct the attention of the Members to a pamphlet that I just discovered. It was published in 1936 by the Social Security Board, and it is entitled "Security in Your Old Age." It reads:

> Beginning in 1949, twelve years from now, you and your employer will each pay 3 cents on each dollar you earn, up to $3,000 a year. That is the most you will ever pay.

On the back of this same Government publication it says:

> What you get from the Government plan will always be more than you have paid in taxes and usually more than you can get for yourself by putting away the same amount of money each week in some other way.

Mr. Speaker, I hope the grain of salt that people should have used when they read this is still around on these new promises on education.

Mr. MICHEL. The gentleman makes a very valuable contribution.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman

Mr. QUAYLE. Mr. Speaker, I say at the outset, if you like the way the Department of Energy functions, you are going to love the way this new Department of Education is going to operate. There are a couple of incredible things about this bill.

One of the incredible things to me is the reasoning of a number of Members. I am not going to get into the motivation or the reasoning, but the ones who are in favor of this will say, "Yes, I am going to support it, but very, very reluctantly."

Yet on the other side, the ones against it are adamantly opposed to it.

Another somewhat incredible thing is that there is editorial opinion in this country, whether it is the Washington Post or the New York Times or the Indianapolis Star or the Chicago Tribune, from all sides of the political spectrum, opposed to the creation of this new Department of Education. There are editorials that have been well thought out and well reasoned, which gets me back to really one of these incredible things that I cannot put out of my mind. That is this commitment that everyone has made on this bill.

"Oh, yes, I am really not for it, but I committed myself to it. I maybe made that commitment 4 or 5 years ago. I committed it to a teacher back home. I committed it to my mother."

You cannot beat that, committing it to your mother or making that commitment, but let us look at what this commitment was based on.

This commitment was probably based on the fact that it was told you that first tion or a new bureau. We are talking about an entire department. Departments have lives of their own. They always, always grow, they never, never, never die. Is that what you promised the folks back home? I think not. I think you made an honest promise to help children in your district. Keep that promise by voting against this bill.

Remember, misdirected sincerity can cause as much harm as calculated cynicism. When it comes to making policy it does not matter if your heart is in the right place if your head is on vacation.

Let us be candid: Some of us might be thinking of the possible political retaliation of the educational special interests if we cross them.

That is not an argument that is easily dismissed. They are tough. They are militant. They are well-financed. The Readers Digest claims that the NEA has a political war chest of $250 million.

A few weeks ago, in a speech given at Cheyney State College in Pennsylvania, President Carter denounced "special interests." He said "ordinary citizens" must participate if good legislation is to be passed. He said the "special interests * * * feed on the apathy of ordinary citizens."

All I can say to these words is "Amen." President Carter himself has given the best argument in favor of voting against this Department. This is a "special interest" bill, pure and simple. Not for children, or their parents, certainly not for the taxpayers but for just one big special interest—the NEA lobby.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

from Wisconsin.

Mr. OBEY. Mr. Speaker, after listening to all of the reasons given by the gentleman in the well for opposing this bill, I am embarrassed to say that I agree with his opposition to the bill. I am opposed to this bill because I think almost everything the gentleman said is wrong. I am opposed to the bill because I think that a new, separate Department of Education will be looked at simply as a single-issue lobby within the administration, much as the Department of Labor is looked at, much as the Commerce Department is looked at, and, therefore, it will be ineffective. I also think it will be ineffective if they are taken out of the umbrella agency which they have now where they are in the same boat with the unions, with the health lobby, with everyone else. As one person on this floor who has worked continuously for higher education funding, I believe they are stripped of their power to get that if they are separated out from the HEW Department in the regular bill, as they will be, inevitably, down the line.

☐ 1550

So while I do not agree at all with the rationale of the gentleman in the well, I think on occasion even he can use bad logic to get to a good conclusion. I join him in that conclusion.

Mr. MICHEL. I thank the gentleman. This, of course, is not the first time we have differed on the logic of the approach to a problem.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. QUAYLE).

of all this would be a reorganization, and second of all, that there would be no more Federal involvement in the education system than what we have today.

Now, let us take the reorganization. This thing is not reorganization. There are well over 100 agencies related to education that are left out of this. It is not a reorganization.

The gentleman from New York talked about Mr. McIntyre's reorganization being much better than what is in this new Department of Education, and no more Federal involvement.

If you believe that we are going to create a Cabinet-level office and have no more Federal involvement, I think someone put it very aptly, then maybe we believe in the tooth fairy. It is simply not going to happen.

If you ask the administration, besides their commitment to NEA politically, do they want this new Department of Education to give it more visibility—give it more visibility from where? Give it more visibility from Washington. Give it more visibility from the Federal Government. For the first time in the history of this country, we are federalizing and establishing, as a policy, a Federal education system.

I think that an easy way to discard this very bad idea and bad idea continued, would simply be to vote down the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

(Mr. WALKER asked and was given permission to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I think that the real question for all of us in this debate over the Department of Education is whether what we are doing serves the best interests of education. I think that is what we all want, those of us who oppose the Department, those who want to see the Department go forward. All of us want the same thing. We want to do what is best for education.

As someone who spent some time teaching in the schools, it occurs to me that the fundamental focal point of education is the teacher-student relationship. That is what it is all about. That is where education really takes place. That is how we measure educational success, is how well the teacher works with the student and what the end result is, in terms of the learning process.

It disturbs me when I go through this bill for the Department of Education page by page, that the teacher-student relationship is not mentioned once. Nowhere in this bill does it even address the teacher-student relationship.

All this bill is about is more bureaucracy or more efficient bureaucracy. You have got to believe that bureaucracy or even more efficient bureaucracy adds up to educational progress in order to support this proposal.

The point is that those of us who oppose the Department of Education have continued to point out time and time again all kinds of conclusive evidence that this new Department will be bad for education.

Now, it seems to me, therefore, that it

If we believe that Commerce and HUD—that is right, HUD—Interior, Justice, and State are examples of lean, trim, efficient Government, only then can we accept the concept that an improved management efficiency is going to result from the Department of Education.

We have heard there is going to be a limitation on personnel. This Department starts out with one-and-a-half employees for every school district in the country. The limitation of 450 people does not cut that ratio at all.

Built into the bill is the fact that we are going to over the next decade increase the size of the Department by 500 employees, wiping out the original limitation.

We will hear from the proponents that we are going to have accelerated program implementation.

Well, the gentleman from New York, Senator MOYNIHAN, has put that well. He said it, and I am paraphrasing, that if you have improved energy within the system, what you end up with is more end product.

What that means is, if you calculate it out based upon paperwork, statistics now for the Government, that nearly 1,000 new pieces of paper every year are going to come into every school district in the country as a result of the creation of this new Department, 1,000 new pieces of paperwork, new redtape for educators to be burdened with. That is not what we need in education.

The proponents would have us believe

look back at the basic constitutional issue. The Constitution says "All powers not enumerated to the Federal Government are reserved to the State." And in the Federalist Papers, some of the intelligent founders of this country talked about that, and they talked about what should be in a Cabinet-level department. They came to the conclusion that it should only be those things that are of compelling and unique Federal interest.

No matter how you slice the cake, education is predominantly of State and local interest.

Now, that does not mean that education is not important. It is. It is the most important asset for the future. It does not mean we do not need increased funding. We do. Education is underfunded and teachers are underpaid.

But, does it mean that we set up a Cabinet-level department for an issue that is predominantly of local and State concern? I say absolutely not. I think it violates constitutional intent, and I think that the founders of this Nation would not have it that way.

I have never seen an issue since I have been in this Congress for 2½ years that has less enthusiasm. I have not found one person who grasps this issue and says, "I love this department, it is going to do wonders for this Nation, it is going to improve educational quality," because they cannot say that in good faith. Nobody knows whether it is going to do any good or not. It might. It could help the bureaucracy a little bit. It could make things a little more compatible. But no-is up to the supporters of this Department to show that what they are doing is going to be good for education.

Instead, all they are doing is talking to us about bureaucratic efficiencies, some of which are even themselves open to question. If there is not an overwhelming preponderance of evidence that this new Department is going to serve that fundamental teacher-student relationship, then it seems to me that the Department needs to be rejected.

The one clear fact is when we look at the bill that the teacher-student relationship is not an objective at all. It is not even mentioned. Now that has to be disturbing.

If we look at what the proponents say this Department is going to do, we find that the whole thing is summed up in just talk about bureaucracy.

For instance, they say it unifies a fragmented organizational structure. It does not even do that. Ninety-six percent of all education programs which are outside the perusal of the Office of Education today are left outside the new Department of Education.

That does not do anything about fragmentation. They say it improves administration and management. It would create the 13th Cabinet Department with a $14½ billion budget, 24,000 employees, 14 executive-level positions, 61 supergrade positions and 15 additional supergrade positions for a 3-year transitional period.

In other words, the new Department of Education is going to be larger than the Department of Commerce, HUD, Interior, Justice, and State.

that it is the development of a basic structure for reorganization. It does not provide for the transfer of any more specific programs than are now in the bill. We would have to come back to Congress and get approval for further transfers.

I would urge rejection of this Department.

Mr. DODD. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mrs. CHISHOLM. Mr. Speaker, would the gentleman yield?

Mr. GLICKMAN. I yield to the gentlewoman.

Mrs. CHISHOLM. Thank you very much.

I wish to go on record at this point to indicate that I am against a separate Department of Education. And as the debate progresses within the next few days I will go into all of the multitudinous reasons why this Department should be rejected.

Thank you very much.

Mr. GLICKMAN. Mr. Speaker, I am against the department.

I served on a local board for 3½ years before I came to Congress and was president of a local school board.

I think the gentleman from Illinois (Mr. MICHEL) hit the issue when he talked about is it going to help kids, is it going to improve education in America, is it going to improve proficiency. Nobody knows that answer.

But I think even more than that is to body knows for sure. And I say unless you can show me a compelling reason why this department will improve educational quality, which is in direct contravention of what the founders of this Nation talked about when they talked about a reservation of powers to the States. This is a federalist issue we are dealing with right now. Do we want to give State and local governments ultimate control over education?

I believe that if you believe that you do want to give State and local governments an ultimate control then you vote "no" on this bill, recognizing that things are not perfect in education, recognizing teachers do have significant problems in coping with the educational system. But also recognizing that this could be the turning point for public education in this country, which I believe in very, very strongly, and which I believe needs to have more and more local control and local influence.

Mr. QUILLEN. Mr. Speaker, the opponents of this measure talk about bureaucacy. They fail to realize that the Office of Education is in one of the most bureaucratic Departments of Government.

As a matter of fact, HEW's budget is number three in all of the world only under the United States of America's total budget and only under Russia's total budget.

As a matter of fact, their own audit turned up over seven billions of dollars that got away without them even knowing where it went. And the whole cost of the Department of Education in a Cabinet-level position is only around 14.5

billions of dollars a year, or just about twice as much as they lost over there.

Is it not time we start taking education and giving it the dignity that it deserves and create a Cabinet-level position.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, what conceit the people have who think that the "made in Washington" stamp indicates quality. All too often we have had the argument that if things are not going right here or there or elsewhere, move the responsibility for that function to Washington and it will be done better.

That is exactly what is being asked here today. Oh, we are going to hear and we have heard a lot of discussion about this being a matter of reorganization, it has nothing to do with policy. That just is not the fact.

It has been pointed out in debate already that the creation of a Cabinet-level Department is a statement of policy. The creation of a Cabinet-level Department means that we have decided the Federal Government has an overriding responsibility relative to this particular function.

That has never been the case up until now. The gentleman from Kansas is exactly right when he points out the reservation of the power to the States. And throughout the course of the history of this country we have seen an educational narrow and specific. Every categorical aid program requires rules and regulations spelling out as to exactly how those funds will be used. Every categorical aid program requires an application to be filled out at the local level, to be reviewed at the regional level and then, of course, the bureaucrats, to prove they have done their job, have to find something wrong with it and send it back to the local education agency. Then after it has been rectified it is sent back again to the regional or district office, and then finally finds its way into Washington. When the check goes out the trouble begins, because then all of those rules and regulations must be followed, records must be kept to see that they have been followed. Then records have to be filed with the Washington bureaucrats who again, a whole raft of them, read these reports and see whether the narrow categorical aid programs are being used properly and in accord with Federal policy.

☐ 1610

What could we do? We have made a few faltering steps in our Committee on Education and Labor to consolidate some of these categorical aid programs. What we should do is to move to block grants to free up our local educational agencies from the directions from Washington. The creation of a Cabinet-level department means they will have to justify the size of that department, the complexity of that department, the number of people that they have employed by continuing categorical aid. How could they move nia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 73, not voting 68, as follows:

[Roll No. 192]

YEAS—293

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
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Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar

system grow.

It is not perfect. As the gentleman from California says, we have good teachers, we have a good educational system and it has grown, it has flowered, it has fluorished with diversity, both public and private. Diversity, within the public system one State or one school district doing what they think is best. And it may not be the same as another State or another school district. The private system is moving in a different direction than the public system, we have that diversity and that local control has served us well.

We have heard from the administration, through Vice President MONDALE, that the reason for our move in this direction should be that we are the only industrial democracy that does not have a ministry of education. I say thank God.

Let us see what they have with ministries of education. In France they tell me that you can go into any school in France on any particular day and those students will be learning from the same page, and the same textbook, because they do have a central ministry of education that specifies these schoolbooks, specifies day by day what will be taught from those textbooks.

I know there are statements in the legislation itself saying that there shall be no Federal control. But let us look at what this Department will be doing. We have at the present time a system of categorical aid programs. They have grown like Topsy over the last 15 years. This at the present time is the preferred and almost only way that we extend Federal help to local educational institutions.

Categorical aid by its nature is very

to a simpler system? How could they move to a system where they are principally sending out checks? I ask that the Members vote against this rule and against the bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DODD. Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. BROOKS).

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, I want to say that I urge an affirmative vote on this rule on the Department of Education Act. It is a good rule; it is a good act. We ought to pass the rule now, pass the bill Monday night, and send it down to the President.

GENERAL LEAVE

Mr. DODD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 299.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of Califor-

Boggs
Boland
Boner
Bonior
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cleveland
Clinger
Coleman
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel

Harkin
Harris
Heckler
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lehman
Leland
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis

Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Runnels
Russo
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Spence
Stack
Staggers
Stanton
Steed
Stewart
Stockman
Stokes
Stratton
Studds

Swift
Synar
Tauke
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NAYS—73

Archer
Ashbrook
Bafalis
Bauman
Bennett
Bolling
Broomfield
Brown, Ohio
Burgener
Cheney
Chisholm
Collins, Tex.
Conable
Crane, Daniel
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Duncan, Oreg.
Erlenborn
Findley
Garcia
Gaydos
Gradison
Green
Grisham
Guyer
Hansen
Harsha
Hinson
Holt
Hopkins
Hyde
Jeffries
Johnson, Colo.
Kindness
Kramer
Lagomarsino
Latta
Lederer
Lee
Lent
Loeffler
Lungren
McClory
McDonald
McEwen
Michel
Myers, Pa.
Obey
Paul
Quayle
Ritter
Robinson
Roth
Rudd
Sabo
Satterfield
Shumway
Shuster
Snowe
Snyder
Solomon
Stangeland
Stenholm
Symms
Taylor
Walker
Wilson, C. H.
Wylie

NOT VOTING—68

AuCoin
Badham
Baldus
Bonker
Bouquard
Breaux
Brown, Calif.
Burton, John
Forsythe
Fowler
Frenzel
Fuqua
Gilman
Goldwater
Goodling
Hagedorn
Murphy, N.Y.
Nelson
Price
Richmond
Rodino
Santini
Sawyer
Schulze

Mr. Walgren with Mr. Evans of Georgia.

Mr. Stark with Mr. Philip M. Crane.

Mr. Richmond with Mr. Clausen.

Mr. Price with Mr. Fithian.

Mr. Nelson with Mr. Badham.

Mr. Kogovsek with Mr. Bonker.

Mr. Jones of Tennessee with Mr. John L. Burton.

Mr. Holland with Mr. Chappell.

Mr. MICA and Mr. PASHAYAN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1630

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2444, to establish a Department of Education, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from schools meet some of the challenges posed by changes in our society, and by the setting of national goals and priorities. These include the need to insure equal educational opportunities for all our children, through programs for the poor, the disadvantaged and the handicapped, through bilingual programs, and through enforcement of the civil rights laws. In addition, Congress has enacted laws to enable more of our children from low- and middle-income families to go to college, to prepare students for employment through vocational and career training, and to support educational research and innovation.

All these programs, and others, have been grafted onto existing departments and agencies, most of them in the Department of Health, Education, and Welfare, helping to swell that Department to a size that makes it almost unmanageable. And the Federal education effort itself, as a result of this haphazard growth, has become confused and confusing, marked by duplication and fragmentation of programs and responsibilities, blurred lines of authority, and a lack of coordination between the various departments and agencies involved.

What we are bringing before the House today in H.R. 2444 is a bill with only one aim: To improve the management of our Federal education program.

This bill does not create any new education programs. It does not set any national education policy. It does not create a new education bureaucracy. And it does

Chappell
Clausen
Clay
Coelho
Collins, Ill.
Conyers
Crane, Philip
Davis, S.C.
Edgar
Erdahl
Evans, Ga.
Fary
Ferraro
Fithian
Flood
Hammer-schmidt
Hawkins
Hefner
Holland
Johnson, Calif.
Jones, Tenn.
Kogovsek
Lloyd
Lujan
McKay
Martin
Mikulski
Mineta
Mollohan
Simon
Solarz
Spellman
St Germain
Stark
Stump
Vander Jagt
Walgren
Whitehurst
Wilson, Bob
Wilson, Tex.
Wolff
Wydler
Young, Mo.
Zeferetti

☐ 1620

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Frenzel.
Mr. Hawkins with Mr. Bob Wilson.
Mr. Fuqua with Mr. Rodino.
Mr. Lloyd with Mr. Forsythe.
Mr. Wolff with Mr. Santini.
Mr. Flood with Mr. Simon.
Mr. Zeferetti with Mr. Johnson of California.
Mr. Fowler with Mr. Stump.
Mr. Murphy of New York with Mr. Whitehurst.
Mr. Brown of California with Mr. Wydler.
Mr. Mollohan with Mr. Vander Jagt.
Mr. Breaux with Mr. St Germain.
Mr. Fary with Mr. Hammerschmidt.
Mr. McKay with Mr. Schulze.
Mr. Charles Wilson of Texas with Mr. Lujan.
Mrs. Spellman with Mr. Hagedorn.
Mr. Solarz with Mr. Sawyer.
Mr. Mineta with Mr. Martin.
Ms. Ferraro with Mr. Goldwater.
Ms. Mikulski with Mr. Clay.
Mr. Baldus with Mrs. Collins of Illinois.
Mrs. Bouquard with Mr. Goodling.
Mr. Edgar with Mr. Coelho.
Mr. Davis of South Carolina with Mr. Gilman.
Mr. Hefner with Mr. Conyers.
Mr. Young of Missouri with Mr. Erdahl.

Texas (Mr. BROOKS) will be recognized for 1½ hours, and the gentleman from New York (Mr. HORTON) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 8 minutes.

Mr. ICHORD. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, since the public school system was established in this country it has been under the direction and control of local and State governments. That is the way it has been, and that is the way it will continue to be.

But over the years the Federal Government has assumed limited and sharply defined responsibilities to help the not interfere in any way with local and State control of education.

The bill does not discriminate in any way against private educational institutions. The "Purposes" section of the bill specifically provides that one of the purposes of the new Department is "to support more effectively States, localities, and public and private institutions, students, and parents in carrying out their responsibilities for education."

The thrust of our Federal education programs has been to treat public and private education without differentiating between the two. The entire thrust of the Department of Education bill retains that philosophy and nowhere do we attempt to favor one over the other. Both private and public educational institutions will benefit from the passage of this legislation, which will focus more attention on our educational system and will give parents and students involved with public and private schools more assurances of a quality education.

The bill transfers into the new Department of Education virtually all of the educational programs and activities now in the Department of Health, Education, and Welfare, along with HEW's vocational rehabilitation programs for the handicapped, and those functions of the Office of Civil Rights and Inspector General's Office that deal with education.

It also transfers to the new Department the schools now operated by the Defense Department for the education of American children overseas; the schools and education programs for Indians now in the Department of the Interior; the college housing program now in the Department of Housing and Urban

Development; educational programs for migrant workers' families now in the Department of Labor; certain science programs now in the National Science Foundation, and some law enforcement education programs now in the Department of Justice.

There are about 150 programs in all that will go into the Department of Education, along with their budget authorizations of nearly $14.5 billion, and a total of more than 24,000 personnel. All these programs, budget authorizations and personnel slots now exist. They are not being created by this legislation. We are only bringing them together in a more coherent, more efficient, more visible and accountable organization.

Far from adding to the Federal bureaucracy, the new Department will result in a smaller and simpler management structure. Just as one example, the number of offices involved in developing legislative and budget proposals will be reduced by more than 50 percent, producing substantial savings in the amount of time it will take to carry out these functions.

In proposing the Department of Education, the administration estimated it would eliminate between 350 and 450 staff offices and special assistants in HEW. The Committee on Government Operations has gone them one better. We have required in this legislation that the number of full-time positions transferred into the new Department be reduced by 450 by the end of its first year of operations.

As an educator, I have always regarded the support of education as the noblest function of government. The Federal Government, in particular, has an interest in insuring that educational opportunities are available to all in promoting higher education through financial assistance to low- and middle-income families in supporting vocational and career training, and in fostering educational research.

That these function rest with the Federal Government is firmly established by congressional mandate. Just as firmly established is the tradition of local control of education. I foresee a Department of Education enhancing that tradition. A Department of Education would reduce the number of offices and the amount of time necessary to process funds to school districts and students.

A better coordination of education programs now scattered throughout the Federal bureaucracy would reduce overhead costs of administering those programs. According to estimates, initial savings of a new Department will more than offset transition costs of transferring and consolidating education programs. And the Office of Management and Budget predicts that $100 million will ultimately be eliminated from the costs of administering education through improved financial management and auditing.

I look forward to creation of a Department of Education to serve as an indication that the Federal Government recognizes how valuable to this Nation tion programs which are now operated by Federal departments and agencies. This legislation is a major part of the President's proposed reorganization of the Federal Government.

This is not a spur-of-the-moment proposal, hastily conceived in a political campaign and thrust upon the Congress without adequate consideration. The concept has been studied and has matured over a long period of time.

Over the past 55 years a number of independent studies and Presidential commissions have recommended a Department of Education. Bills for the creation of a Department of Education have been pending before the Committee on Government Operations in every Congress since I became a Member in 1963. In fact, from 1908 to date, approximately 130 pieces of legislation to establish a separate Cabinet level Department of Education were introduced into the Congress.

The National Congress of Parents and Teachers was supporting a bill for a Cabinet level department as early as 1922, and the National Education Association has been committed to the establishment of such a department for over 100 years.

Thus, Mr. Chairman, interest in the Department of Education is not a recent one but it is a long developing concept whose time has come. Neither is the proposal one that has come to the floor of the House of Representatives without adequate hearings by the committee of jurisdiction. In fact, in the 95th Congress our committee held 5 days of

That will produce clear savings of between $15 and $19 million, more than enough to offset the transition costs of setting up the Department. And down the road, as the improved financial management and audit systems that will result from the reorganization take hold, savings of $100 million are foreseen by the Office of Management and Budget.

Those are only the savings at the Federal end. The improvement of services to the States and local school districts, as well as to private educational institutions, and the reduction of redtape in their dealings with the Federal Government, will produce significant savings for them, as well.

The end result of all this, of course, will be improvements in an education system that will directly benefit the more than 100 million students, parents, and teachers who participate in that system, and will strengthen our Nation as we move to meet the challenges of an ever more complex and demanding world.

This is a reorganization that makes sense from every point of view. I urge you to support it.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the very distinguished gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the gentleman in the well. I desire to be associated with his remarks. I commend the gentleman for his leadership on this very important bill.

Mr. Speaker, today the Congress considers H.R. 2444, a bill I have cosponsored to create a Cabinet-level Department of Education.

the investment of human capital represented by education truly is. A Department of Education would guarantee that education receives the attention it deserves instead of being submerged in the Department of Health, Education, and Welfare. I am astounded, Mr. Speaker, when I consider that the Department of HEW has a budget exceeded by those of only two other Government entities in the world: that of the entire Federal Government, and that of the Soviet Union.

The "E" in HEW is clearly lost under the present arrangement: education accounts for less than 8 percent of HEW's budget. Yet Federal education programs are already so important that a separate Cabinet-level department to handle them would have a budget larger than five existing departments. A Secretary of Education would increase the visibility, the accountability, and the coordination of programs that teach and train the American people.

Mr. Speaker, I hope the Congress will accept the opportunity to create a new Department that will work with officials in the cities and towns of this country to improve the quality and access of education for all our citizens.

(Mr. DRINAN asked and was given permission to revise and extend his remarks.)

□ 1640

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 2444, this bill to establish a Department of Education.

The bill would bring together under unified management many of the educa-

hearings, heard dozens of witnesses expressing all points of view with respect to the reorganization, and devoted approximately 6 days to a very complete and thorough markup in the subcommittee and in the full committee before reporting H.R. 2444 to the House.

This year the committee devoted 3 more days to the hearings and an additional day of markup in the subcommittee and another day in the full committee before reporting H.R. 2444 to the floor.

This is not a partisan issue. Proponents and opponents of the Department of Education are on both sides of the aisle.

Why is the idea so important? The answer is quite simple. HEW is too large to properly manage the programs that have been assigned to it. The budget for HEW is the third largest in the whole world. First is Russia's budget, then the U.S. budget, and then the budget of HEW.

Buried in this bureaucracy in HEW is the Office of Education. The organizational structure is so complicated and it is so stratified that it is oftentimes impossible to get something done. In fact, in the last 12 years there have been 13 Commissioners of Education. That fact alone, in my judgment, speaks volumes about how serious the deterioration of the management of the important Federal education program has become.

All we have to do is talk to somebody in the Office of Education, and they will tell us that it is very difficult to get their ideas accepted or to get their programs adopted because they have to go through not only the Office of Education but first the Assistant Secretary and then up to the Secretary. So it takes literally weeks and months before they can get anything done.

The testimony given to us by the Director of OMB indicated that with regard to applications, regulations, and budget requests a tremendous amount of time is consumed in order for the Office of Education to get its programs through. It is estimated that because of this reorganization this time will be cut in half by the elimination of 15 offices from the clearance process.

This bill would, then, reduce the size of HEW, which in and of itself is a good thing, and I cannot understand why people are opposed to that.

The new Department of Education would have a much better defined administrative structure, with easily defined points of responsibility and accountability. In other words, the Congress would have a better opportunity to see what is going on in the education field because of better accountability and better management. We would have one office, one head of education to look to for the management of the education programs that are now scattered throughout the Federal Government. There are something like 160 programs that are now scattered throughout the Government, and they would be under one head, one place, where we could have better management and better accountability.

The bill does not establish new programs or spend more money than is has really been no control of education in the intervening 14 years?

Mr. HORTON. Mr. Chairman, that is not what I said. I said that this bill prohibits the Department of Education from exercising direct control of education.

Now, what you refer to is something different. I think the gentleman will agree with me that if this bill does not pass and the Department is not established, the system will continue the same as it is now. The point I am making is that education is controlled today with categorical programs and the manner in which they have been set up and administered.

I think with the type of management and accountability that would be achieved by the new Department, we could alleviate encroachment at the Federal level. Specifically, we have put the prohibition in the bill. That was done intentionally.

Mr. ASHBROOK. Mr. Chairman, do I understand that what the gentleman is saying is that we put it in the law before and they did not pay any attention to it, but by putting it in the law now, they will pay attention to it?

Mr. HORTON. Mr. Chairman, I am not arguing that point. All I am saying is that we have put it in the bill here to establish the Department. It is a keynote section; it is section 103. It is one of the earliest sections in the bill.

It is our intention that the language be followed, and as far as I am concerned, the committee of original jurisdiction at a later point when citizens may have to come to court and insist upon it. Let me read what it says.

☐ 1650

Mr. HORTON. I do not have a copy of it in front of me, but if the gentleman does, I will yield him the time to read it because I think it is important to put it in the RECORD at this point.

Mr. LEVITAS. I think it is absolutely essential. It says this:

> No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

That is what it says, and what that means is that unless this Congress specifically, by legislation coming out of the Committee on Education and Labor, creates a new right, the Secretary is prohibited by law, enforcible in the courts, from any interference with local education. I think that point should be made early on in this debate.

Mr. HORTON. I am glad the gentleman made the statement. I appreciate hearing what the gentleman has to say on that subject. I agree with him com-saved. As a matter of fact, there will be savings as a result of this reorganization because of the elimination of some 450 positions.

The bill does not create a new education bureaucracy. One of the gentlemen speaking earlier on the rule was attempting to point out that there is no reference in here to students and teachers. The point is that this is a reorganization bill. It only deals with improving management. It does not deal with the substantive issues that are involved in matters of education.

This bill does not set education policy. It does not interfere with State and local control of education. It simply improves management.

As a matter of fact, there is a specific provision in the bill, section 103, that says that the Federal Government shall not direct or be in charge of or in control of education at the local level. Those of us who are in favor of creating the Department feel very strongly that there should not be any control from the Federal level, so we have specifically prohibited Federal control of education in section 103 of the bill.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think my colleague, the gentleman from New York (Mr. HORTON), was here when the first Federal Aid Education bill was passed. I think my colleague will recall that was in the legislation at that time.

Is the gentleman saying that there

diction, the Committee on Education and Labor, on which the gentleman serves, would certainly have the responsibility of making certain that that law is upheld. It is in the bill. If it is passed and becomes law, I certainly would do everything I can on the Committee on Government Operations to make certain that the prohibition is respected.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding and for his answers.

I am glad to have some of that responsibility in the future, but we failed rather badly in the past. Maybe we will do better in the future.

Mr. HORTON. Mr. Chairman, that is one of the reasons for having this Department, so we will have better management and better accountability.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman from New York (Mr. HORTON) for making the point he just made with regard to the insertion of section 103 in the bill. I think it is important at the outset of this debate for that point to be made, because we are all going to hear more and more about this permitting greater intrusion into local education, and so forth.

The language of this provision could not be clearer than it is. It will even be understandable to some of the judges who will have to interpret the language

pletely. It is important that that prohibition be in this legislation. The gentleman's interpretation of the legislation and the fact that it is up to the Congress and the courts to carry it out is a good point.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, let just make this point. The words that the gentleman just read from the bill, I understand, are identical to the language already in our general Education Provisions Act. So that if this is of any comfort to anyone who thinks it is going to change the course of Federal control, it does not change the current law.

Mr. HORTON. Is the gentleman saying that the law should not be enforced?

Mr. ERLENBORN. The gentleman is saying that this is the law today. And we already have much too much Federal control, with rules and regulations reaching right into the classroom.

Mr. HORTON. Would the gentleman eliminate this section from the bill? Is that the gentleman's intention?

Mr. ERLENBORN. I am telling the gentleman that restating what is already the law will not change anything.

Mr. HORTON. Mr. Chairman, in reply to the statement made by the gentleman from Illinois, I would like to say this: Regardless of what laws are on the books now and how they have been interpreted, I do think it is very important that this bill contains this language.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Mr. Chairman, before I yield to the gentleman, I want to thank him for this language. This prohibition resulted from the language he offered to the bill in the subcommittee in the last Congress when he was on the Committee on Government Operations.

Mr. CORCORAN. Mr. Chairman, I appreciate the gentleman making that comment.

Mr. Chairman, in view of the discussion about this particular section 103 in the debate now, as well as the general concern which the proposed Department has generated with respect to Federal intrusion into what have been traditionally local school decisions, I would just like to emphasize what the gentleman from New York and the gentleman from Georgia have already made perfectly clear, it seems to me, and that is that the language which I developed and was able to successfully offer as an amendment to the bill which was developed in the last Congress and which is, in my judgment, essentially the bill which we have pending before us today was, as my colleague, the gentleman from Illinois (Mr. ERLENBORN) pointed out, language that was taken from the General Provisions Act; and the purpose was to make clear that the Department which we are attempting to create with this legislation will in no way have the authority to intrude on Federal decisions and, furthermore, that the only additional influence that the Federal presence can have in our local school districts would have to come out of the Education and Labor Committee

Mr. HORTON. And I am talking about the fact that Congress has the opportunity to makes changes in the administration-proposed legislation. As a matter of fact, we made another change which I will talk about in a few minutes with regard to limiting the number of personnel. That was an amendment that was offered in the full committee. I thought it was a good amendment. I will do everything I can to make certain that that goes into the law. If it passes here and in the other body and we have a conference, I want to make certain that that language is in the bill.

So I do not understand the gentleman's argument. The fact that the administration did not send it up does not make any difference. It is in the bill now.

Mr. WALKER. My point is that the people who are going to be administering the bill are not really as intent upon this as the Congress.

Mr. HORTON. That is not really a valid objection to the bill, because they will have to carry out the mandate of the Congress. If they do not, we will make certain that they do. That is the whole purpose of the oversight function of the Congress: to make sure that agencies carry out the mandates that we pass.

Mr. WALKER. The one thing I wanted to point out is that I think it is possible that we can probably strengthen the local control provisions even more through the amendment process here on the floor.

Mr. HORTON. That might be.

Mr. WALKER. And I was hoping that amendment, I know, to set up a separate Office of Education. But it seems to me that if you are going to have a department, if you are going to have education outside of HEW, it ought to be of Cabinet status. In my judgment, the existing structure is very cumbersome. There is a real management problem at HEW. You do not have accountability. It is a very costly process. So I would opt for the better management and for the better organization.

☐ 1700

One of the arguments against the creation of the new Department is that personnel will increase by leaps and bounds. I have heard that stated in the halls here of the Congress at different times. I have heard the charge that it is going to be like all the other agenc[illegible] created. That it is going to gr[illegible]opsy, and there are going to be more and more personnel. As a matter of fact, during the debate on the rule, someone was attempting to use this limitation on personnel to make it appear as though we were increasing or making it possible for the executive branch to increase the number of personnel.

Section 403 in the bill puts a limit on personnel. It says that when we transferred personnel over to the new Department, that the total number of personnel shall be reduced by 450, which is the number that OMB says can be saved as a result of the reorganization. After the transfer they cannot increase the number of people in that agency over 50 of the House and out of the Labor and Human Resources Committee of the other body. The fact is that this Department adds in no way the ability of the Federal Government to enter into what are traditionally local school decisions.

Mr. HORTON. I think the point that should be made in response to the gentleman's comment is this: This language is very important. With this language on the books and with the programs in education scattered out, as they are, throughout the Federal Government, the policy which has been enunciated and set forth in prior legislation is difficult to administer, control and to follow up on. But here we set up a Department and we hold this Department accountable, to make certain that local control is not going to be usurped by the Federal Government.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think it makes an important point, though, that when this legislation originally came to us in the last Congress, this language was not in there and it was up to the Congress to put language in which emphasized local control. It seems to me that this says something about the intent of the Administration.

Mr. HORTON. I am not talking about the intent of the administration. I am talking about the bill that is before us.

Mr. WALKER. I understand that. the gentleman, since he made such a strong statement on this, would support that thoroughly. I am going to offer an amendment that would give local school districts veto power over regulations issued by this Department.

Mr. HORTON. I will certainly not support that, and I will tell the gentleman now that I will not support it. That does not solve the problem.

Mr. WALKER. That assures local control over educational policies. I would hope that the gentleman would reconsider and support such an amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS. Section 103 was in the bill which was sent down by the administration this year. It was not in the bill last year when they sent it. This year it was in the bill.

Mr. HORTON. Mr. Chairman, in hearings before the Committee on Government Operations it was clearly demonstrated that the proposed separate Department would eliminate the cumbersome management structure within which education decisions in HEW are now made. It will remove duplication and will mean less redtape and better service to States, localities, schools, and students.

There are those who would prefer to have the Office of Education as an independent office within HEW. While such an idea has merit, it is not the choice before us. The option before us is to create a new Department or leave it like it is. Somebody is going to offer an each year without coming to the Congress to get specific authority.

It seems to me that this limitation on the size of the Department is an important addition to this bill.

In summary, this reorganization represents what many in the Congress have been asking for; that is, organizing the bureaucracy in such a way that it can adequately manage its responsibilities. This means accountability for decisions and clear lines of authority that will allow for proper oversight activity.

The CHAIRMAN. The time of the gentleman from New York (Mr. Horton) has expired.

(By unanimous consent, Mr. Horton was allowed to proceed for 2 additional minutes.)

Mr. HORTON. It will also permit efficiencies and economies that cannot be realized when programs are scattered throughout the Federal agencies.

I urge my colleagues to vote for this bill and to oppose any debilitating amendments that may be offered on the floor later.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I would like to speak for a moment to this idea of education programs scattered all over the Government. Education, and I have spent most of my life in the education business, is a function. That function fulfills a variety of missions.

To say that the education functions, which are lodged in the Department of Defense, which are lodged in the National Science Foundation, which are lodged in the Department of Labor, are scattered wrongly and therefore must be brought to another point, a centralized point, I think, is dead wrong. Those functions belong with their missions. Those functionsare effective in fulfilling their missions.

Education in and of itself can be wonderful and can be entertaining, but by and large, education fulfills a certain set of missions. If you divorced education from the mission that it is to fulfill, you divorce it from the end product and the result of education.

One massive educational function can only have one function, and that is to further increase its own functional status.

Mr. HORTON. There is some merit in what the gentleman has to say, but I think if the gentleman will analyze what I have said and the material that has been furnished him with regard to the proposed reorganization——

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. I am not disagreeing with the gentleman that there are educational functions that ought to stay in other agencies, because they are part of the overall function of that particular agency. The problem now is the proper management of educational programs that are not directly related to the mission of the respective agencies and are

Mr. HORTON. Try to put all this together. It's an impossible job.

I am on the Select Committee on Committees, the special committee that we have here in the Congress this year to try to do something about reforming the committee system of the Congress. One of the problems is that we do not have the ability to properly conduct oversight.

The committees cannot do it, because these programs are scattered throughout the Federal Government. What we are trying to do with this reorganization is to take 160 programs and put them basically in one organization where we can look at them.

Mr. RITTER. I think, if the gentleman will yield further, title III does define a whole list of transfers into this new Department. I would agree with the gentleman from New York, there is no doubt that there is a major problem with the Department of Health, Education, and Welfare.

It is not just with the Department of Education itself, but it is within the structure of that particular bureaucracy.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

(At the request of Mr. RITTER and by unanimous consent Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. RITTER. To continue, Mr. Chairman, to say that because there is a problem in administering programs in the Department of Health, Education, and Welfare, we should make the philo-

that a major education ministry is familiar enough with the subtleness of education within the various military services, to provide a positive step forward for that education process?

Mr. HORTON. Does the gentleman think that is the function of the military, to educate?

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. If there is one argument that I think the gentleman is weak on, it is that one. The Department of Defense should not be in the business of education. They have the business of defending this country, providing the military strength and so forth.

Now, they do have children overseas, and they ought to be educated, but that ought to be done under the auspices of an Education Department and not under the auspices of the military.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman.

First of all, I want to associate myself with the gentleman's remarks with respect to the organizational problem which this legislation addresses. But I think the gentleman from Pennsylvania has raised a good point about whether or not we ought to start looking at the individual student in terms of a whole spread out throughout the Federal Government.

Mr. RITTER. If the gentleman would yield further, that spread is not in and of itself deleterious to accomplishing the missions that those educational programs are designed to accomplish.

Mr. HORTON. I am not arguing against the idea of excluding educational programs that are vital to the mission of a particular agency.

What I am trying to point out is that there are education programs that are not mission specific and that ought to be under a Department of Education rather than under another agency. Many of the programs will come from the Office of Education. One of the problems that HEW has is the inability to properly manage these programs. If the gentleman will take a look at the chart, he will see they have to go through several layers of bureaucracy most of which can be eliminated as a result of this reorganization.

Now, that in and of itself is helpful.

The other is that the Congress does not now have the ability to take a comprehensive look at all the programs of education.

It has a difficult time when it has to look at several different agencies, one committee in the Congress is looking at it here; another committee is looking at it over there.

The CHAIRMAN. The time of the gentleman from New York (Mr. Horton) has expired.

(By unanimous consent, Mr. Horton was allowed to proceed for 1 additional minute.)

sophical judgment to create an education ministry is going from the frying pan into the fire.

Mr. HORTON. I did not say that at all. Those are the gentleman's words, not mine. I feel it is important to establish a Department of Education in order to eliminate much of the bureaucratic maze, in order to shorten the length of time that it takes to implement laws, that it takes to get the budget process through, that it takes to implement the different programs that the Office of Education has.

We have testimony of people in the Office of Education saying they would like to make improvements, and it takes months before they can actually do anything because of the bureaucracy that they are involved with.

Mr. RITTER. I agree.

Mr. HORTON. Now, there are programs that ought to be administered by the new department. There are some that ought not to be, and the Congress, in its wisdom, has already eliminated some of those. There are others that probably ought to be here.

For example, we had a very serious question about the education of Indians, that is now under the Bureau of Indian Affairs. It was left out of the bill that was sent up by the administration. It was voted out in the last Congress. There was an amendment at the committee level to put them in.

Mr. RITTER. If I might ask the gentleman a quick question, I know that the title contains the programs for the Department of Defense. Does any one thing, or is there any one possible thing

person or whether we ought to continue the present practice with our Federal dollars that are being spent in having different program types.

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I recall the testimony before our subcommittee last year of our former colleague, Al Quie, who is now the Governor of Minnesota. He pointed out very, very clearly that one of the big problems we have right now is the lack of coordination between the manpower training program in the Department of Labor and the vocational education programs in HEW.

I think what we are trying to do, and I realize that is not contained in this legislation, but the point is we are beginning the reorganization process. So I would hope that in years to come we could begin to look at the recipient of these funds in terms of a whole individual and not a program type.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent Mr. Horton was allowed to proceed for 5 additional minutes.)

Mr. JEFFORDS. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Just previously the gentleman mentioned the manpower programs and Al Quie, who was greatly respected. I would just like to let you know I intend to offer an amendment which will transfer to this Department of Education the manpower training programs out of the Department of

Labor in titles II, III, and IV of that title.

I just have come back from a tour around the country looking at the youth unemployment programs, or youth employment programs, if you want to look at it that way, and the thing that came home to me was the need to cooperate and the need to insure that we have cooperation between the areas of education, vocational education, and our youth employment programs. Where that is occurring it is working well.

But, unfortunately, in the majority of the country it is not occurring. It seems to me important that if we are going to have a Department of Education that it ought to be aimed at the areas of the greatest need, and that is at our young people who are dropping out of school, young people who are unable to find employment because of a lack of education. What we need to do is have cooperation at the top so that we can get that coordination and cooperation at the bottom where it is necessary.

So, it seems to me a Department of Education without the mechanics to do that does not have the meaning it should have. And I have endorsed the Department, although I have very serious questions about voting for it without the meaningful manpower programs which I believe it should have.

I just want to alert the gentleman that I intend to offer an amendment to accomplish that purpose.

Mr. HORTON. I think the gentleman has made some excellent points. We here, and I agree with the gentleman that maybe the whole educational process of these people's coming from the Interior and everywhere else, it is good to have them there. But our mission I think in education, as my friend from Vermont just stated, is to really educate our young people so that they will be able to be gainfully employed.

I certainly hope as we go into the amendment process that we will, if we can, strengthen it so that the local level can have better control. I am certainly for that. I do not think I would go quite as far as the gentleman mentioned a few moments ago of a veto by any local level, but I think it is our mission to see our young people have the opportunity for the finest possible education they can have. And if it means giving stronger influence to this bill that the Government Operations Committee has worked so hard on, I certainly hope our colleagues will support it.

I enjoyed working very much with the gentleman from New York and the other members last year, and I certainly intend to support the committee in obtaining a bill, the mission of which is to educate our young people.

Mr. HORTON. I thank the gentleman for his contribution. We are sorry that he is not with us, but the gentleman has important responsibilities on the Appropriations Committee.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Connecticut.

many participants in the efforts to achieve those objectives. Examples range from the Morrill Land Grant College Act, the GI Bill and the Higher Education Act, all aimed at encouraging college attendance, to efforts directed at insuring civil rights and equal opportunity, as embodied in the Elementary and Secondary Education Act and the Education for All Handicapped Children Act, among others.

A fundamental reason that we do not now have a separate department to administer these initiatives is that Federal education-related programs are distributed among the various agencies according to their expertise; child nutrition, including student meal programs, in the Department of Agriculture, Indian education in the Bureau of Indian Affairs, college housing programs in the Department of Housing and Urban Development, law enforcement education in the Department of Justice, and so on.

I fear that removing these kinds of programs from the agencies with the administrative experience and the resources dedicated to addressing these issues would result in a lack of coordination and duplication of effort, in direct contrast to the purported goal of improved efficiency espoused by supporters of the bill.

Proponents of H.R. 2444 contend that the legislation would reduce the overlapping jurisdictions and disjointed policy implementation of education programs located in various agencies. While that is a worthy goal, it does not demand the cannot get the Department established until we take this step, and it is important to bring educational programs under one head where the head of the Department can actually manage and be accountable for those programs. That is not the situation that we have if we leave the situation as it is today.

So, I think it is important for us to establish the Department. And I would urge my colleagues to vote for it.

Mr. JENRETTE. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I yield to the gentleman from South Carolina.

Mr. JENRETTE. I want to associate myself with the gentleman's remarks, having had the pleasure of serving on the committee last year when we debated at great length the Department of Education bill. I regret for a number of reasons getting off that committee. I am looking at one of the reasons I regret not staying on the committee now.

But, I have moved over to the Appropriations Committee. The colloquy you were having with the gentleman about moving all of these individuals out of other departments into the Department of Education I think bears pointing out the fact that we in the Appropriations Committee, we have a very, very serious problem of five or six subcommittees dealing with parts of each individual Cabinet-level Department. There is no subcommittee in appropriations, and as we have seen here there is no subcommittee in any of the authorizing committees whereby we can really have total oversight.

I think probably we should realize

(Mr. McKINNEY asked and was given permission to revise and extend his remarks.)

Mr. McKINNEY. Mr. Chairman, I rise in strong opposition to H.R. 2444.

Once again, we are being asked to pass judgment on an ill-conceived proposal to create a Cabinet-level Department of Education. In October, due to the lateness of the session and the large number of bills to be considered, last year's predecessor to the version before us today never received floor consideration. I am confident that with full debate of the issues involved, the House will resoundingly defeat H.R. 2444.

In the 8 short months since the close of the last session, opposition has arisen to H.R. 2444 from a broad spectrum of interests, from organized groups, individuals and the press, liberals, and conservatives. In my own office, mail is running better than 2 to 1 against the creation of a Department of Education. And it is interesting to note that in the Government Operations Committee, the bill was reported out by the thinnest of margins, 20 to 19.

The most basic considerations in this debate are the historical and the proper future roles of the Federal Government in the field of education.

In this country, schooling of the young has always been a State and local responsibility. This precept has endowed us, despite our failings, with the most diverse, flexible and responsive educational system in the world. Federal involvement in education has always been secondary, limited to the pursuit of broad social goals with the schools as one of

elevation of the Office of Education to the status of a cabinet department. Furthermore, review of this bill yields many contradictions between its legislative objectives and the agency transfers it recommends to implement the consolidation.

Is it logical to transfer the Bureau of Occupational and Adult Education from HEW, yet refrain from bringing in Training and Youth Services from the Department of Labor? Does it make sense to include HEW's Telecommunications Demonstration Programs without the broadcast demonstration programs authorized by the Educational Broadcasting and Telecommunications Demonstration Act passed by this body in 1976. Is it appropriate, in the spirit of more efficient administration, to transfer HEW's Institute of Museum Services to the proposed department when the National Endowments for the Arts and for the Humanities perform many of the same functions?

I would be interested to know the justification for keeping the GI bill education benefits within the Veterans' Administration. Could it be that the VA is best equipped to deal with the concerns of veterans? Whatever the reasoning, why did not it apply during consideration of the $111 million a year College Housing Loan Program before its subsequent removal from HUD? And finally in this vein, if efficiency of operation through consolidation is the goal of H.R. 2444, how will this be achieved when only $14.5 billion of the more than $10 billion Federal education effort is brought within the purview of the department.

Despite the inconsistency of the program transfers I have outlined, my major criticism of the Department of Education proposal is that the establishment of a cabinet-level department should occur only when there is a major national policy goal to be achieved. This was the case in the creation of the newest Federal departments, Housing and Urban Development, Transportation, and Energy. If the Congress desires a greater role for the Federal Goverment, the creation of a Department of Education is the place to begin.

Though supporters of H.R. 2444 insist otherwise, I fear that the natural result of that step will be more Federal initiative in the area of educational policymaking and a major encroachment into local autonomy over the schooling of our children. I feel I should reiterate that there is no central Federal mission in this field. Congress actions since the passage of the Land Ordinance Act in 1785 have been based on the concept of a limited, supportive Federal role in education. Since then, Federal involvement has always been directed at social goals where there is an existing Federal responsibility, be it civil rights, as in assuring equal educational opportunity, or nutrition in the case of the school lunch program.

That being the case, there is no sound management basis for creating a new department, a position borne out by the last three Commission studies on government and administrative organization. Indeed, President Johnson's Heineman Commission specifically warned against

(Mr. RUDD asked and was given permission to revise and extend his remarks.)

Mr. RUDD. Mr. Chairman, this bill to create a new Federal Department of Education is what is commonly referred to as "vested interest" legislation, and I oppose this action.

My colleagues well know from the intensive lobbying effort promoting this legislation that the primary force behind it is the National Education Association, one of the national union organizations representing public school teachers.

There is nothing wrong with a union organization promoting legislation. In fact, in this case we have the NEA union promoting the Department of Education bill and the American Federation of Teachers and other unions opposing it.

But in the case of this particular proposal to create a new Federal Government education bureau, with tremendous influence and control over Federal education programs and policies, including the spending of billions of dollars in Federal education grant assistance, we are faced with a moral and ethical dilemma.

The NEA already has considerable influence and control over Federal education policy. Many believe that it has too much control. NEA officials, as I will document in a minute, actually participate behind the scenes in the review and writing of official U.S. Office of Education regulations and policy guidelines before they are promulgated, and in some instances wield unofficial veto power over such policies.

LOBBIES AND GUIDELINES

One of the lobbies' most powerful methods to influence USOE [U.S. Office of Education] policy is exercised during the drafting of a law's "regulations" and "guidelines." After the president signs a bill into law, the original wording of the law is broken down and reshaped into language that facilitates the tasks of administration. The first chore, ordinarily a nonpolicy function performed by USOE attornies, is to draw up "regulations." Regulations are a simple restatement of the law but reorganized and made more easily understandable. Drafting "guidelines," however, is a vital policy function performed under the auspices of middle and lower middle level bureaucrats. Guidelines go well beyond mere restatement of the words of Congress. They are interpretations of the intent of the regulations. Once published in the Federal Register, these interpretations carry the force of law, instruct state and local school officials and all other people and agencies affected by a law, and explain exactly what they can do with the funds. Although regulations must reflect the "intent of Congress" as laid down in hearings, committee reports and the actual law itself, middle level administrators often exercise a great deal of discretion over their content, and often the content of guidelines changes according to political pressures.

Before publication of guidelines, the big lobbies traditionally review them and exercise varying degrees of veto power over their content. Working closely with USOE middle level bureaucrats, representatives of the NEA, NSBA, AASA, AVA, etc., check the wording and intent and actually participate in drafting alternative wording of guidelines. Lobbies therefore participate heavily in determination of prescriptions that have the force of law. When unchallenged, this power is considerable; it thoroughly integrates the

the establishment of departments serving "... narrow specialized interests or professional clientele such as health or education." That caution was echoed last year by a distinguished member of the majority leadership who stated that executive reorganization is basically a political, and not an administrative act.

Mr. Chairman, I have always been a strong advocate of aid to education. During consideration of the first concurrent budget resolution, I supported all attempts to direct more funding to the education, training, employment, and social services function because it is obvious to me that we are not affording as much educational opportunity as we should. However, the establishment of a Department of Education will do nothing to stem the decline in student achievement. Moreover, such a move may even lull us into the belief that we have addressed the problems facing our educational systems, when all we would have accomplished was a shuffling of bureaucrats hundreds or thousands of miles from where the solutions lie—in the communities that support and maintain the schools. Even without the logical inconsistencies of the bill, I could not endorse legislation creating a $14.5 billion department which is justified so heavily on such undefined catchwords as "status" and "prestige". Recognition is achieved through positive action, not cosmetic change. I urge you to reject H.R. 2444.

Mr. HORTON. Mr. Chairman, I disagree strongly with the gentleman.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Arizona.

This is not a healthy situation. The NEA represents only one public constituency—one group of member teachers, but not all teachers. NEA does not represent any noneducators. This bill will only institutionalize, centralize, and strengthen that NEA power over Federal education policy and programs.

As I have said, this is not a healthy development. Compounding the dilemma facing many Members of Congress is the fact that the NEA has given substantial political contributions to many Members of the House, who are now being asked to vote whether or not to pass legislation directly beneficial to NEA, and increasing NEA's involvement in Federal education decisionmaking. News stories documenting these NEA political contributions appeared in the national press this week.

Mr. Chairman, it is important to understand and document the current NEA role in Federal education policymaking, in order to understand how this bill will directly benefit this organization's own vested interests.

This role has been revealed in great detail in a book entitled "Power and Process," written in 1974 by Harry L. Summerfield, a former recent legislative aide for the House Education and Labor Committee, who then worked at the Department of Health, Education, and Welfare on the staff of the Assistant Secretary for Education Planning and Evaluation.

Following is Mr. Summerfield's insider's description of how Federal education policy is shaped behind the scenes by the NEA and other powerful education lobbies; which I will read:

public which is ostensibly regulated by government with the government regulators.

USOE bureaucrats welcome this cosy cooperation because it leads to smooth relations between themselves and most of the public they serve. Instances where public issues arise over the content of regulations are surprisingly rare, but they occur, and when they do the protagonist is almost always a group that was not privy to the prepublications guideline review.

One conflictual incident arose in 1970 over the use of Title I money. Regulations did not allow the expenditure of Title I dollars for anything but school materials and manpower. Certain civil rights groups examined the guidelines and petitioned the commissioner and the secretary to change them to permit expenditures for clothing for children. The big lobbies, who originaly participated in drafting the guidelines, vigorously opposed the change, mainly because they represent the maintenance of the schools and teachers salaries and did not want scarce federal education dollars siphoned off to meet individual needs not directly provided by the schools. Despite considerable public protest in Washington supported by newspaper coverage and editorials, the guideline remained unchanged.

Another conflictual instance between middle level bureaucrats and lobbies began as an issue of enforcement of existing guidelines. The Washington Research Project (see chapter 2), basing their protest on their own research drawn in part from published government reports, published the so-called "Martin-McClure Report." In it they presented evidence that administration of Title I dollars failed to comply with regulations and guidelines requiring rigorous federal enforcement of targeting of dollars to the poor. The Martin McClure Report cited instances where Title I money was used for general aid to school systems benefiting all children, not just the poor. To ensure closer control of the dollars—local enforcement to

> supplement weak federal enforcement—the group proposed a guideline change to require creation of parent councils in every school with power to review and determine Title I expenditures.
>
> Visions of "community control" and administrative agony in the local schoolhouse prompted the large education lobbies into aggressive opposition to the Washington Research Project move. Ostensibly a compromise was reached between the civil rights advocates and the lobbies by changing the guidelines to require parent councils on a school districtwide basis with symbolic but not real review and control authority of Title I. In this way the big lobbies could be in favor of "local control" of education while continuing to focus power on education professionals.
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> The two examples described above took place at the guideline level. No laws were passed, no hearings held, no votes taken. The administrator's interpretation of the law prevailed, and that interpretation had its base in the desires of the big lobbies. In these cases, the civil rights groups demonstrated less powerful impact than either the administration or the big lobbies. Although civil rights groups could raise the issue, without support from elsewhere—Congress, a split among the big lobbies, the president—the middle level administration could simply absorb the temporary public flack. (Notably, the ability of the Washington Research Project to raise an issue and in the process develop limited congressional support won their leaders an invitation to some future prepublication guideline review sessions. Their power, however, remained limited.)
>
> If the NEA or AASA or other large group had sought a change in guidelines, their position would have been quite different from the civil rights groups, and middle

Mr. Summerfield pointed out in the passage that I just quoted that NEA works hand-in-glove with the middle level bureaucracy in writing the regulations and guidelines for a program once Congress has authorized and funded it. But Summerfield also notes that NEA has had difficulty getting the current Federal education top level bureaucracy to initiate programs they want, and this had to obtain these programs directly from Congress.

Once a program, such as a new teacher training program, has been passed by Congress, Summerfield documents instances where NEA has then moved their own officials who shaped the legislation and lobbied it through Congress into Government positions of administration over the program.

One example of this cozy relationship cited by Summerfield was the appointment of Don Davies, an NEA official who helped develop the Education Professions Development Act to expand Federal teacher training, as administrator of the EPDA program once Congress had passed it. Mr. Summerfield described this circumstance as follows, and I quote:

> MIDDLE LEVEL ADMINISTRATORS AND THE LOBBIES
>
> The education lobbies as big professional associations are more concerned with the ongoing administration of federal programs at the middle level of policy formation than they are with the machinations of the top level. . . . The lobbies, as large maintenance organizations seeking additional dollars for teacher's salaries and ongoing programs, have government). However, under the structural circumstances of shared power, Davies was caused to act consistently to minimize the potential for disruptive conflict between NEA and USOE. From this, he salvaged personal prestige and a political space of his own to direct innovation in EPDA programs.
>
> On one hand, lacking political shrewdness or lacking the will to link NEA and USOE, Davies could not have survived in this particular job (Lacking neither of these, he flourished.) On the other hand, his concern for providing government-based leadership in the use of EPDA dollars, while probably dispensable, enhanced Davies' career. He moved shrewdly between his personal ambition to use USOE dollars as a change agent and NEA's proclivity to view USOE activism skeptically, and thereby avoided being branded either as a mere maintenance bureaucrat or a boat-rocking trouble maker. This was a center course—the happy road to bureaucratic success and power.

Mr. Chairman, it is apparent that the motives of the National Education Association and other elements of the educationist establishment are self-serving in their intense promotion of this legislation to create a new Department of Education.

Passage of this bill is designed to perpetuate and increase the pattern of growing bureaucratic control over our Nation's public school system described in graphic detail in Harry Summerfield's book, "Power and Process."

I should note that Mr. Summerfield has been an integral part of that process, and was himself a middle-level bureaucratic official who helped to wield the considerable power about which his book is so revealing.

level administrators would have reacted accordingly. The big lobbies are backed by the moral force of their professional constituency, the ongoing reciprocal relationships with bureaucrats (many of whom are members of the organizations or were once employed by them), and strong support from Congress. An NEA guideline proposal, for example, carries a natural credibility with the bureaucrats which civil rights groups have a difficult time creating. A USOE career bureaucrat, who probably views himself as an "educator," is more likely to conclude that, if the NEA wants it, it must be a serious, "proper" proposal in the interests of public education. Civil rights groups tend to be viewed as somewhat "radical," not in touch with the real problems of the schools, and supportive of a shift of power from educators to the open community. In short, civil rights groups (as well as the Chamber of Commerce, the National Association of Manufacturers, and many other lobbies) tend not to be considered the natural public of USOE, and these groups have not carried political "clout" with the middle level administrators of the law.

Mr. Chairman, if so many organizations representing the public and our business community, as well as the people themselves, are not considered "the natural public" of the U.S. Office of Education middle bureaucracy as currently constituted, one can well perceive the tightly-controlled NEA-oriented bureaucracy from the top down that would be brought into being under this bill.

In fact, it has been the NEA's difficulty in controlling top level Federal education policy, according to Mr. Summerfield in his book "Power and Process," which has led to NEA lobbying for congressional legislation such as this to tighten that control.

been less effective at the top administration levels. To influence top level policy, the lobbies have turned to Congress.

Middle and lower level administration officials, have, however, continually embraced the lobbies. Their motivation is pragmatic. The middle and lower level people must administer the ongoing programs that ultimately become the programs of the lobby's membership. Lobbies can provide USOE people with information and facilitation, which eases administrative problems when federal programs are applied at the state and local levels. Likewise, lobbies cause conflict and, because bureaucrats dislike conflict more than anything else, lobby aid and support is welcomed.

A particularly good example of cooperation between Dr. Don Davies and the NEA. Before his appointment as the first administrator of the Education Professions Development Act (EPDA, a law to enhance varied aspects of teacher training). Davies had worked for the NEA on research and reports that served as important underpinnings of the EPDA legislation. Engaged in development of the act, known by NEA officials, and trusted, from the NEA viewpoint Davies made an ideal appointment as administrator. This did not mean, however, that NEA ran EPDA. It did mean that, since Davies fashioned the expenditure of considerable discretionary dollars, he could work in close communication with NEA as well as university and foundation advisers so that decisions made in government would raise minimum conflict.

The power brokerage role played by Davies was not entirely voluntary. Rather, it was in part structurally defined, a necessity based on real NEA power within the administration and in Congress. Had NEA not been a political match for USOE, Davies could have reduced his power brokerage function in favor of autonomous power—"educational leadership" (that is, he could have spent federal money with fewer constraints from outside

It is my great hope that the House of Representatives will reject this legislation. It is also my hope that Congress will act to stop the "revolving door" relationship between the NEA and other educationist lobbies, and Federal Government operations involving education.

Congress has wisely acted in other areas under ethics in government legislation to prevent this kind of conflict of interest that is apparent in the education area of Federal Government activity. The same strict standards and prohibitions should be applied to Federal education programs and the administration of billions of dollars of Federal education assistance annually approved by Congress.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished member of the committee, the gentleman from Pennsylvania (Mr. Moorhead).

(Mr. MOORHEAD of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I thank the gentleman from Texas for yielding time to me, and I say that because he knows I am going to rise to oppose the creation of a Department of Education.

Mr. Chairman, I rise to offer a few comments against the creation of a Department of Education.

I oppose the creation of a separate Department of Education. As a member of the Government Operations Committee, to which this legislation was referred, and as a member of the Legislation and National Security Subcommittee which had initial responsibility from the committee over the legislation, I have heard many arguments pro and con as to the merits of creating a Department of Education. The weight of the arguments force me to oppose such a department, principally for two reasons. First, the proponents have not been able to justify to me the need for a separate Department of Education. Proponents suggest that a separate Department will give education greater prestige and visibility. I say education already has great prestige in America, great visibility, that education and yearning for education is ingrained in the psyche of America and that a new Education Department can add nothing to this. Proponents also say that there is need to reorganize the educational component of HEW to make it more efficient. To this, I say fine. I am all for improved Government efficiency. However, instead of this legislation let us reorganize the educational component of HEW within that Department. We do not need a whole new department to improve efficiency, and, in fact, we have no guarantee that any improved efficiency would result from a new cabinet level department. I need only to point to the Department of Energy to aptly illustrate that new departments and improved efficiency are not necessarily associated.

More importantly, I am opposed to the creation of a new department because it poses a potential danger to an important American tradition. We in America have had no central educational policy. Rather, we rely—and have flourished in so relying—on having individual and independent educational policies set by ing away time and money that could be spent in educating children to fill out duplicate reports and comply with overregulation. Educators are getting lost in the education establishment which is scattered throughout HEW and elsewhere. A local school superintendent or a college president cannot get answers. He becomes an archeologist digging through the many levels of bureaucracy within HEW and may never receive a clear-cut answer.

With the proposed Cabinet-level Department of Education, I see an opportunity to correct this situation. Rather than creating a new bureaucracy, it actually reduces the number of bureaucrats. It does not create one new office, or add power or increase spending. What it does do is force education to be accountable, something it could never be buried as it is in the bowels of HEW and the Departments of Labor, Defense, Justice, Interior, and Housing and Urban Development. It brings together 150 programs which are now scattered in an invisible education establishment and makes them visible and accountable. If we do not bring all the pieces out up front, how can we ever know how many taxpayer dollars are being spent on all sorts of educational programs? Who is spending that money? For which educational purposes? The way it is now, hidden in the nooks and crannies of big government, we can never know for sure if any program has been overlooked in an accounting.

gate regulations with impunity. They will know that Congress is paying attention to what they are doing, looking over their shoulders, and can take action if they go off the wrong track. It is axiomatic that we will see more carefully drafted regulations, as well as more attention being paid to the views of citizens during the comment period. Its very existence will sensitize the bureaucracy and make it more responsive.

To those who say they fear the centralization of education as the end of local control, I say it is an achievement to be able to bring all the parts of the education establishment out in the open. All those programs exist and exert controls today but cannot easily be identified. The powers that they have today, they will have tomorrow. No more, no less. In my view, this bill contains the strongest guarantees to local control that I have seen in any bill. Section 103 says that:

> The Secretary * * * [may not] * * * exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school * * * [or] library resources, textbooks, or other instructional materials.

We will have better, not more, Government. President Carter has said he would veto any bill creating this new Department which would bring about a greater intrusion by the Federal Government in local education. This bill does not do that. It guarantees local control.

and in our thousands of local communities. This diversity of policy, founded upon our tradition of local control of education, insures that we as a people and as a Nation enjoy the pluralism of thought that is one of America's hallmarks. To me, the establishment of a Department of Education provides a potential for a centralization of the control of ideas, a potential which may or may not be realized but one which will be latent for as long as the Department exists. This is the danger which the creation of a Department of Education holds and which, for me at least, is sufficient to oppose its establishment. I call upon my fellow Members to give careful consideration as to whether they want to support the creation of a cabinet level department which contains a danger contrary to the heritage of America.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. LEVITAS).

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

Mr. LEVITAS. Mr. Chairman, I have long believed that one of the strengths of this Nation lies in the ability of each community to educate its own children. Its sons and daughters learn about the past, present, and future of the larger world in the framework of community values and ideals. This diversity and local heritage is an underpinning of our society. Both public and private schools should be allowed to fulfill that important responsibility without being burdened by the paperwork and escalating bureaucracy of big government.

Today, schools at every level are tak-

This bill will actually tighten up the reins on bureaucrats and put a leash on the Department instead of writing out a blank check for a new Secretary. The bill contains two amendments that I authored which would make this the first Federal agency to be created with fewer bureaucrats than before and a set of built-in brakes to prevent any future bureaucratic growth. Today, HEW has 145,000 employees on payroll and a budget of $184 billion. My "personnel limitation" amendment statutorily cuts 450 positions off the new Department payroll within 1 year, and thereafter—with a minor exception—does not allow the hiring of any new employees without the passage of an act of Congress. Small is, indeed, beautiful. This type of reduction-of-bureaucracy-before-it-gets-started is unprecedented in our history. This is one Department that cannot just grow and grow. In fact, it will be smaller.

My other amendment makes this the first Government agency to be established from the outset with a legislative veto provision on substantially all of its rules and regulations. The amendment extends the presently existing General Education Provisions Act veto provisions to substantially all transferred functions and programs. Congress would have 45 days in which to disapprove a rule or regulation through passage of a concurrent resolution by both Houses.

This congressional veto provision will have a twofold effect. It makes the Department more responsive to the public and to congressional intent by establishing the unquestioned realization in each agency that they cannot promul-

I have had the opportunity to speak with the widest variety of people from many States, including my own State of Georgia. These local school board members, parents, and teachers described in a chorus how terrible the current paperwork and bureaucracy situation is in the current establishment. They strongly endorsed this new Department as a vehicle for putting education back in local hands. In my conversations with local people, those people who are the most jealous of local control have supported this bill including local school board members, and associations and State school superintendents.

More than anything, this bill is an opportunity to check the hidden growth of education functions which have sprung up all over Government. It identifies them for better congressional oversight; it limits their growth; and it gives citizens, through their elected Representatives, the right to stop a bad regulation before it carries the weight of law. It will give us a better and more responsive educational future for America's boys and girls and young men and young women.

Mr. Chairman, I rise in support of this legislation.

I have long believed that one of the strengths of the Nation lies in the ability of each community to educate its own children.

Now, Mr. Chairman, if I could get the attention of the chairman of the full committee, my distinguished colleague from Texas (Mr. BROOKS) for the purpose of clarifying and spelling out the legislative history of section 424 of this bill, I would like to ask the chairman of the Government Operations Committee some questions about the section-by-section discussion of section 424 in the committee report. Is my understanding correct that it is not the intention of the committee to cut back on the previous application of the scope of the rule and regulation review contained in the General Education Provisions Act to any program it now covers?

Mr. BROOKS. That is my understanding, yes.

Mr. LEVITAS. I raise the question because on page 26 of the committee report there is an implication in the last sentence of that paragraph that suggests that rules and regulations of the Office of Civil Rights now subject to GEPA congressional regulations disapproval procedure would not be subject to GEPA procedure under this bill.

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On the other hand, on page 14 of the committee report in the discussion on the section on rules, the first paragraph states that rules and regulations presently covered for congressional review and veto by section 431 of the General Education Provisions Act would continue to be covered by those provisions in this bill.

It is my understanding prior to the introduction of this legislation we have before us today, any regulations promulgated under the Civil Rights Act of 1964 for the administration of an education program would be subject to these GEPA review provisions by the Congress who will perform transition functions only for 3 years.

Any other jobs that are created will come from positions which exist today which can be consolidated or eliminated to allow for new functions.

It is my understanding that it is a responsibility of the Secretary to determine where these internal consolidations can occur so he can make room for any new positions that may be referred to in this bill.

Mr. BROOKS. That is a correct question of what section 403 does and how a reduction of 450 positions will be achieved. I want to add I discussed this with Jim McIntyre, the head of the OMB, this morning and clarified that it means full-time, active positions, no questions, no buts, no ifs, and it will be done in that fashion.

Mr. LEVITAS. I appreciate that because I think this limitation on the size of the bureaucracy means that instead of creating a larger and growing bureaucracy we will actually have a smaller one and one which could only be increased by act of Congress.

It is also my understanding, notwithstanding the provisions of law and any other general authorities of the Office of Management and Budget as in setting personnel ceilings, that the personnel ceilings of the Department of Education will be limited by this section of the bill the day this act goes into effect.

In other words, there can be no increase in the number of new positions, of the number of positions for the new tive to section 403 about which the gentleman has spoken, I appreciate the colloquy which the gentleman has just had with our distinguished chairman, and what the language of the section says.

The language says, "shall be reduced by 450 and thereafter the number of such positions shall not be increased by more than 50 in any one year."

To put a period there and make an outright commitment not to increase any time in view of the thousands we have already we do not need would be fine but it says, "except by law enacted after the date of the enactment."

The administration does not commit itself not to recommend an increase beyond the 50 at some subsequent date we know not when, does it?

Mr. LEVITAS. That is precisely correct. The reason that is in there is that this Congress by law can change any law we pass.

I for one, and I am sure my colleague from North Carolina will join with me in defeating any such bill that would come before the Congress, and indeed support legislation that would cut back even further on the number of positions.

Mr. FOUNTAIN. I hope we can defeat this one so that will not be necessary.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I spoke a little while ago on the rule and

and that it was not the intention of the committee to cut back on that coverage.

Mr. BROOKS. My distinguished friend, it was not the intention of the committee to cut back on the coverage of the GEPA provisions. The language of the bill clearly indicates that the GEPA provisions are to continue to apply to the same extent that they are now applicable and, in addition, certain new transferred functions will additionally be made subject to the GEPA rule and regulatory review and veto provisions as specified in section 424 of this bill.

Mr. LEVITAS. I thank the chairman for qualifying this point so there will be no mistake about the legislative history on this question.

Now, Mr. Chairman, for purposes of qualifying another point I would like to ask the chairman some questions about title IV, section 403 of this bill.

Is my understanding correct that a reduction of 450 positions means a net reduction in the personnel level of this new Department below the number of such positions that exist the day before it comes into existence?

Mr. BROOKS. That is correct.

Mr. LEVITAS. Mr. Chairman, I understand the reason we were able to cut 450 positions in this new Department is because of consolidation and elimination of overlapping and duplicative functions that now exist in HEW. In the programs to be transferred, reorganized and streamlined we will have a net savings of 450 positions.

Whatever jobs are created will be new in job description alone except for the temporary 15 limited term appointees Department after its creation which can result in its having more employees so the total number of employees in the Department exceeds the number of transferred positions less 450 when section 403 becomes operative.

Further, we would hope and I personally, speaking for myself, would expect that the reduction is in administrative positions and not in low-level slots or teaching or teacher-related positions.

Mr. BROOKS. The gentleman is correct about that. I discussed this in detail with Jim McIntyre of OMB this morning and I told him I did not want it just to be low-level slots or teachers or what have you in that category. He said it would be largely administrative. He has a clear understanding about the numbers.

Mr. LEVITAS. Mr. Chairman, I thank my chairman for his interest in this matter and for his clarification of the legislative history.

I think it is unprecedented in the creation of a new agency, department or even the reorganization consolidation that we have started off not by creating a larger bureaucracy but a smaller one which cannot get larger because we have placed a limitation on its growth and it can only be changed when this Congress votes to increase its size.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to my colleague from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, rela- I will not repeat what I said then but let me make the observation at this time that the press comments from across the country on the proposal to create a Department of Education have been almost universally negative, which is almost unprecedented. We have the Washington Post, the Washington Star, the New York Times, the Wall Street Journal, the Christian Science Monitor—practically every newspaper in every major metropolitan area plus newspapers in the smaller cities and villages have expressed themselves against this Department of Education.

Some national columnists have spoken out on this. Columnists like William Raspberry, James Kilpatrick, and others. Again, almost universally the columnists' comments have been against the creation of this Department of Education.

We have an almost unprecedented alliance of groups in the United States. The AFL–CIO and the ACU, the American Conservative Union, and George Meany agreeing on an issue like this. You know, it is just completely unheard of.

How in the world could anything with this almost unanimous opposition have gotten this far in the legislative process and possibly have a chance of passage? There is only one answer. The answer is found in a Reader's Digest article about the growing power of the National Education Association.

Apparently, I am the first one to mention the National Education Association in the debate. I have not heard them mentioned before. The only reason we have the bill here at this time this far in the process is because a number of years ago the National Education Association decided they were no longer going to be a professional organization worried about excellence in education. They turned themselves very consciously into a labor union. They had observed, and rightly so, that the labor unions and other organizations had clout commensurate with political activity and so they very carefully went about constructing an organization that gave them workers in every congressional district.

The National Education Association in 1976 was told by President Carter that he would support this long-sought goal of theirs, the creation of a Department of Education. Breaking with the tradition they had for many years, they endorsed him for the Presidency. They furnished money and workers to his campaign.

I know I do not stand alone in making this observation. I have seen it in the editorials. I have seen it in the columnists' stories.

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We were told by our Democratic colleagues in the hearing, the gentlewoman from New York (Ms. CHISHOLM) and Senator MOYNIHAN came into our hearings and said this is blantantly a political payoff. Senator MOYNIHAN said:

> If I were the President asking the Congress to respond affirmatively to this request, I would be ashamed of myself, because it is purely and simply a political payoff.

they have made the best decisions, they would inevitably, in my opinion, be inclined to translate those decisions into action in all the other schools in the United States.

Why would the Department of Defense dependent schools be put in the new Department of Education, in light of the fact that the Department of Defense recommended against it, in light of the fact that the Office of Management and Budget recommended against it, and only at the last minute before the President sent the bill up here in the last Congress was it included.

There is one obvious answer. This was supposed to be a reorganization. Up until the point they put the Department of Defense dependent schools in this proposed bill, there was practically nothing in it except the current Office of Education. It is purely and simply a device to make this look like a reorganization. Does it make good sense? Not at all. These schools, operated around the world, have been under the jurisdiction of the Education and Labor Committee to a very limited extent, and principally the Armed Services Committee and the Appropriations Committee. Our members on both sides of the aisle on those committees, the ranking members, have recommended against this transfer.

There is no way the Department of Education can reproduce the support system that makes these overseas schools function, a support system that furnishes transportation, health care, housing, subsistence, PX facilities, and all the other in categorical aid. It will rule out block grants, educational revenue sharing. It will be very detrimental to our educational system. It will not help educate children.

I would hope that we would, when we get finally to voting on this, reject this proposition.

Mr. ASHBROOK. Mr. Chairman, will my colleague, the gentleman from Illinois, yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from Ohio.

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks).

Mr. ASHBROOK. Mr. Chairman, first I want to rise to commend my colleague, the gentleman from Illinois, for his leadership in fighting this piece of legislation.

As one who served on the Committee on Education and Labor with the gentleman, I think we know that all the talk about section 103 should bring nothing but smiles, if not guffaws from all of us. We know the intention to control and get involved is there.

I thank the gentleman for what the gentleman has done. I only hope that this House will exercise good judgment in this matter.

Mr. Chairman, the bill we have before us, H.R. 2444, proposes to create a new Cabinet-level Department of Education. The creation of any new Government entity calls to mind the general rules of administration of government. These rules, known to all those who study gov-

I said earlier in the debate on the rule that this was not good reorganization. You know, there are some things about this that I do not think most Members are aware of. It almost boggles the mind. Do you realize that the personnel of the new Department of Education will consist principally of teachers teaching in schools and administering a school system? At the present time the Office of Education does not operate any schools and they never have, to my knowledge. They have consciously avoided getting involved in the actual process of education, because they thought it was incompatible with their function as a Federal Office of Education. Over 60 percent of the personnel of the new Department of Education will be involved in operating the Department of Defense dependent schools, far flung around the world, and I believe in terms of the number of children served, the seventh largest school system in the United States.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

Mr. HORTON. Mr. Chairman, I yield 5 additional minutes to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, let me conclude my comments about the overseas dependent schools. It is a bad idea to have a Federal agency that is charged, as I am so fearful this agency will be charged, with formulating Federal educational policy, have them actually operating schools, making choices of textbooks, curriculum, course content. Then once they have made these decisions, having decided in their wisdom things that go into operating the schools, maintenance of the schools, operating schoolbuses in these farflung locations around the world.

Either the Department of Education is going to have to construct a duplicate system of support which would be totally wasteful, or they are going to have to rely on the Department of Defense to continue to do what they have done before and then it proves that this is just a sham, a sham saying that we are transferring the Department of Defense schools.

If the argument that I have heard in the committee is legitimate, we should take all the Federal education functions and put them in the Department of Education, then perhaps we will find support for the amendments that I intend to offer to put the service academies in the Department of Education.

If the Department of Defense overseas schools can better be operated by the Department of Education, so can Annapolis and West Point, so can the Air Force Academy and the Merchant Marine Academy.

My colleagues, this is, as I said before, not a reorganization. It is not good education policy. It is purely and simply an attempt to fulfill a campaign promise. If it were neutral in its effect on kids and on education, I would not feel so badly about it. Go ahead, let the President fulfill his campaign promise. I do not know why we should help him do it; but this is not neutral in its effect. It will be detrimental to our educational system. It will move educational decisionmaking to Washington. It will lock

ernment state:

First. That government reorganization takes place to consolidate programs for better management control and to eliminate duplication;

Second. That government reorganizations take place to cut the cost of government; and

Third. That government reorganization takes place to realine influence patterns within a specific issue area.

Judging by all three of these criteria the proposed Department of Education is a dismal failure.

A new DOE would aggravate, instead of solve the problems its proponents claim need to be addressed. Just the DOE should scare us. The Department of Energy has been a dismal failure. This Department would be worse.

The first rule, that of consolidation, states that there are times where bringing far flung programs under one roof provides for better management of policy and programs. I fail to see where a DOE would accomplish this goal. Looking at the bill I see only a handful of education programs that are included. There are at least another hundred education programs, including the massive Veterans educational benefits, Head Start, and USDA programs that are left on the outside of this new Department. Why are these left out? If the proponents are really serious of consolidation they should leave no stone left unturned. A new DOE, to follow their logic, should include anything that vaguely touches the education issue. By including everything the economies of scale would save millions of dollars, and the ability of some education czar to look at the big picture of education and to chart a national education course would be achieved.

"But no," cry the proponents, "this is not what we want at all."

They quickly point out that Head Start and other programs should not be in the DOE because, while they are education programs, they also link into other program areas and, therefore, need to stay where they are. I can agree with the proponents assessment of these programs, however, I must then ask, "Can't this argument be made for those that are included under the DOE?" After all, are not DOD schools linked into the broader program for military dependents? Is not the Indian education portion of the Bureau of Indian Affairs linked directly to the trust responsibility of the Department of Interior? Are not the wide range of education programs in HEW many times used in coordination with social and welfare programs? At this the proponents leap up and say that there is a need for a new Department to provide a focus for education.

The number of programs within the Department are irrelevant compared to the new ability to have a Secretary who can command Federal programs without the hassles of the present system which splits education in HEW between an Assistant Secretary and a Commissioner of Education, they counter. I cannot understand this argument. Management control comes from within, not from creating something new. If there is indeed that education was once a function of the family. This function was delegated to first the churches, and then to private institutions as knowledge grew and required specialization. The role of Government in education came out of a desire to expand educational opportunities to a larger portion of the population. At no time was there an indication that the goals of education or the substance would be dictated by anyone other than the parents or the individual school administrators. When Government began to use the financial aid as an open door to meddle in other education matters the problems of administration began to arise. No amount of new agencies or consolidation will avoid this fundemental issue. Administration of education has become a victim of its own activism.

The first rule of Government reorganization is therefore violated. We have before us no reorganization except in name only. We certainly have no consolidation. All of what we are hearing about better control and better coordination can be accomplished under the present structure. Reorganization is no substitute for better management.

The second rule, that of cost saving, has been trumpeted by the White House. Since this is still the era of proposition 13 and the tax revolt the proponents have hoped to snare some more votes by stating there are untold cost savings in a new DOE. These claims are still untold, or at least unsubstained. It is the old doublethink, more is less, new costs are savings, more employees are staff cuts. could be said for NSF education programs, BIA schools, and CETA programs. In all cases what might be gained in coordination is lost because new duplication and coordination problems are created. It makes me wonder why consolidate any of these programs at all since, in each case, you have to fudge a bit on numbers, and stretch a little on rationale, in order to make a case in favor.

If the new DOE will not help management and may even cost more than the status quo, then what will the new department do? The third rule of reorganization is that the shuffling of boxes will affect the pattern of influence that impacts on policy decisions of a given agency. In the case of the DOE the education functions of HEW would be separated from the broader social and welfare functions. The impact of this realinement will have major implications for the future of American education. Under the present circumstances education programs in HEW are heavily linked to the idea of helping various deprived portions of our society. While there is more intervention into the local community than I would like already occurring in the Office of Education, at least it is somewhat tempered by being within the broader context of HEW.

By itself, however, the "E" in HEW would have an immediate need to justify its existence. This could lead to some very rash initiatives. In addition, there would be a longer run effort to justify itself that would mean an ongoing effort to intervene. Even with safeguards built adequate control of education programs, inadequate coordination between agencies, or not enough scope for future policy planning, then it is the fault of the administrators of these programs who have not thought of picking up their phones and making local calls to their counterparts and to arrange staff meetings to talk out differences.

Good management does not need congressional authority let alone bureaucratic meddling. I should hope that the education bureaucrats understand that they have an open invitation from this Congress, and every future Congress, to be competent. If there are any legal roadblocks to coordination or to one education official talking to another education official these can be dealt with on an ad hoc basis. The shuffling of boxes in an organization chart usually ends up only shifting attention from policy problems to the problems of updating agency telephone books. As we have seen with the first DOE, our energy problems got worse while three agencies fought over who got the prime office space in the Forrestal Building. American taxpayers deserve better than this. New office space, new letterhead, and a shiny new official seal does not change the fact that the same old bureaucrats are administering the same old programs. We do not need to watch another Forrestal fiasco to know this, and in this time of inflation the taxpayer cannot afford to see it either.

The problems of our present education administration lies in the fact that the Federal Government is trying to do too much. We have lost sight of the fact Even the Washington Post has seen through this sham. In an editorial they state:

> The House bill, for example, would give the new department a full complement of top management—a secretary, an undersecretary, six assistant secretaries and so on, for a total net gain of 56 executive-level and supergrade posts. As the Congressional Budget Office pointed out, these worthies would require supporting staffs numbering persaps 100. You can hear the new furniture being ordered, the larger offices being leased and the payroll going up.

The proponents of DOE are quick to state that duplication will be eliminated by consolidating programs and that the overall cost of new supergrades will be more than offset by these savings. This sounds convincing, but I must refer to a letter sent by the chairman of the Armed Services Committee. In that letter he states that the transfer of DOD dependent schools to DOE would "rupture the interdependence between the schools and the military, creating significant logistical problems." The letter goes on to state that—

> Because these schools depend upon the Defense Department for a wide variety of services, the transfer will unequestionably lead to increased costs, confusion, and for several years, chaotic conditions.

This is hardly a cost savings. Even if this House votes to eliminate this unwise action from the bill it still makes me wonder why it was included in the first place. How can people who say the DOE is consolidating programs allow such a mistake to make it out of the Government Operations Committee? The same into H.R. 2444 there would be some way for the bureaucrats to slip through a loophole and open a new front or affront on the American education system. I cannot recall any agency that has been successfully reined in by legislative language, except maybe our intelligence sectors. The DOE will be no different.

What groups will be served by this new Department? Parents and children are better served by local government or private institutions than by massive Federal programs. School administrators do not now like the amount of paperwork and regulations they have to put up with from HEW, I doubt they would like an "E" focusing in on their schools. Teachers should not like the DOE because classroom freedom is their livelihood. In fact, no group of citizens will benefit from some education colossus astride the Nation.

Do not be fooled by statements that there will not be control of local education. These same statements were made when Federal aid to education first passed. They were lies then and they are lies now.

There is one group, however, that can be found who would reap the benefits of a DOE. That group is the National Education Association (NEA). For some reason NEA is willing to have its members hamstrung by future regulations, bedeviled by future legions of bureaucrats, and burdened with future high tax bills in order to have an agency to call its own. This is fine for the NEA bosses who work in plush offices here in Washington. They will have agency bigwigs at their beck and call. But for the rank and file teacher there will be no ego trips, no cushy administrative jobs, no opportunity to influence policy. For the grassroots it will be business as usual. This helps no one but the Washington officials in NEA and a President who wants to deliver on at least one campaign promise before the 1980 primaries.

For the privilege of having their own Department the NEA has paid dearly. From 1974 through the 1978 elections the NEA spent $527,522 on Members of Congress who support DOE and another $68,125 on those who are undecided. One wonders about the merits of a new Department when this type of money is being expended to promote it.

Mr. Chairman, I would like to close by saying that I know of some of my colleagues who hope that the worst does not occur with DOE. That we will not get more regulation and more bureaucrats. Some hope they can go home to their constituents with a yes vote to silence the NEA and the wish that DOE will not come back to haunt them. Some in this Chamber hold out the hope that DOE will backfire on its supporters. That a DOE will be an easier target for parents and conservatives to attack. That by dividing HEW you will eventually conquer it at budget time. I am sorry to report, that in my years in Washington I have seen none of this ever come to pass. In my compacity as ranking member of the House Education and Labor Committee I have never seen any indication that Washington will ever give back what is ceded to it. It is best to education and training. Education funding would be much less likely to be cut than it is as a discretionary-funded portion of HEW. The bill also guarantees the concepts of local control and academic freedom, so there can be no mistake about the mission of the Department of Education.

Most important and partially as a result of legislation I cosponsored last term, the bill prohibits the new Department from exercising any direction, supervision, or control over local education programs, personnel, or materials; a crucial section of the bill. It establishes an Office of Civil Rights and provides for an Intergovernmental Advisory Council on Education and an Interdepartmental Education Coordinating Committee. In addition, it transfers the DOD overseas dependents' schools to the new Department; and transfers Indian education programs from the Interior's Bureau of Indian Affairs.

Over the years, the Federal Government has maintained a limited, support role in education; there is no uniform Federal code for school operations, and Federal activities are fragmented in areas of research, demonstration projects, and categorical aid to stimulate certain programs, and the gathering and disseminating of relevant information. Currently, Federal education programs are administered by HEW and seven other agencies—Justice, HUD, USDA, Interior, Labor, DOD, and the VA—plus the National Science Foundation and the National Foundation on the Arts and

First, HEW: The bill transfers the traditional education functions of HEW to the new Department. In addition to the Office of Education and the National Institute of Education, the vocational rehabilitation and related programs, and the Office for Handicapped Individuals also are designated for transfer. Excluded from transfer are social security programs supporting rehabilitation services for the blind and disabled persons. In addition, the student loan program is centralized within the department including: health professions loans; guaranteed loans; nursing loans; and national direct student loans. The nonbroadcasting demonstration program will also be transferred.

Second, Labor: The high school equivalency program and the college assistance migrant program are transferred to the new department.

Third, Justice: The bill transfers the law enforcement education program and the law enforcement intership program.

Fourth, HUD: The college housing program, which offers direct loans and debt service grants to support private market loans, is moved to the department.

Fifth, National Science Foundation: The programs directed to precollege level science education; minority group science education; special interest group science education; ethnics and values issues are designated for transfer. I oppose this particular transfer.

Sixth, Interior: The Indian education programs and those of other native draw the line and say "Enough." That is what the American taxpayer is saying, that is what parents of schoolchildren are saying, and that is what this Chamber should be saying when it votes on H.R. 2444.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

(Mr. HOLLENBECK asked and was given permission to revise and extend his remarks.)

Mr. HOLLENBECK. Mr. Chairman, I support the concept of a Federal Department of Education. Educational programs have been lost for too long within giant agencies with something else as their primary mission. Currently, more than 150 Federal education programs, with a budget in excess of $14.5 million, are scattered throughout 40 Federal departments and agencies. The majority of these programs are spotted throughout the enormous Department of Health, Education, and Welfare (HEW). I know many individuals and organizations have experienced frustration in trying to deal with Federal officials scattered in a variety of educational programs housed in separate agencies and departments. My view is that education, as a major national concern, merits efficient management at the Cabinet level.

This reorganization to upgrade the importance of education in Federal decisionmaking would be accomplished by a simple lateral transfer requiring no additional bureaucracy. It is an efficient and comprehensive blueprint to end the fragmentation of responsibility for Federal Humanities, an extremely undesirable situation.

I am convinced after careful study that establishing a Cabinet-level Department of Education will lead to more effective coordination of the education-related activities of the Federal Government and give education the status and attention it deserves. Federal education programs will get the high-level leadership and management that they now cannot receive because of the complex structure of HEW, as well as a Cabinet-level advocate with direct access to the White House. The end result will be more efficient administration and greater accountability of education programs, the elimination of duplicative activities, and better service and less redtape for the States and localities. In addition, a separate Department of Education will ease HEW's administrative difficulties, making the new Department of Health and Welfare more manageable.

Opponents of the legislation state that in the long run, the Department will constitute an expansion of the Federal bureaucracy; and that its establishment will lead to greater Federal control over education. But they ignore provisions specifically devised to guard against such developments. I am a great believer in controlling bureaucracy, as my record shows, but I resent attempts by some to argue the valid principles of budget balancing and curtailing government's size in situations such as this where they simply do not apply. That action is not far from demagoguery at its lowest.

The programs designated for transfer to the new Department are as follows: Americans currently administered by the Bureau of Indian Affairs are to be moved to Education. Within 1 year of the bill's enactment, the Secretary shall submit to Congress a transfer plan, prepared in consultation with Indian organizations. The transfers are effective at the same time as other provisions of the bill, but the President may transfer functions relating to school operation, construction and maintenance over a 3-year period.

Seventh, DOD: The bill provides for a 3-year phase in period for the transfer of DOD overseas dependents' schools, following a plan to be submitted to Congress within 1 year. The bill specifies that the Secretary is not authorized to operate overseas institutions of higher education.

One important facet of the bill, as far as the size of the Department is concerned is that it requires that the total number of full-time positions in the Department be reduced by 450 by the end of the first fiscal year after the bill's enactment. Thereafter, the number of personnel positions may not be increased by more than 50 in any year without statutory approval.

In conclusion, it is clear that the current structure of education programs encourages the Federal role in education to be inconsistent, redundant, and turf-oriented among Federal officials, with no one actively in charge at the top. In dealing with Federal education that bureaucracy now often misconstrues congressional intent, in addition to imposing overwhelming paperwork requirements on local school districts. A Cabinet-level Secretary of Education would undoubtedly be more sensitive, visible, and accountable. Inappropriate staff initiatives could be quickly curtailed and local interests protected.

In my opinion, an organized Department of Education would coordinate programs, and establish deadlines of responsibility. In doing this, it would express what should be done for education in this country. Instead of occupying a secondary position wihtin HEW, the new Department would give education greater prominence, visibility and the attention it so rightly deserves. I urge favorable consideration of the legislation presently before us.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Puerto Rico (Mr. Corrada).

(Mr. CORRADA asked and was given permission ot revise and extend his remarks.)

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 2444, of which I am a cosponsor. This bill would provide for the creation of a separate Cabinet-level Department of Education, an idea much discussed and long overdue. Literally hundreds of Federal educational programs are scattered throughout 40 agencies. Obviously, when we talk about a reorganization of this magnitude, there is always some element of entrenched resistance to change. Yet at a time when the fiber of American education appears to be at a low ebb, we must restore confidence and accord education a top national priority. This we can do without we are to ever untangle the current bureaucratic morass and accord education the attention it deserves.

I urge you to allow for a more refined and precise examination of the educational problems of our Nation by authorizing the creation of a separate department in the Federal Government to administer, monitor, improve, and make more efficient the existing Federal educational programs.

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Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. Perkins).

(Mr. PERKINS asked and was given permission to revise and extend his remarks.)

Mr. PERKINS. Mr. Chairman, I rise in strong support of H.R. 2444, to create a separate department of education at the Federal level. I highly commend President Carter for initiating this proposal. I also commend Chairman Brooks for his leadership in putting together this bill and expediting its consideration.

As chairman of the Education and Labor Committee I have carefully observed the state of education in this country over the years. Some time ago I concluded that separate department status would greatly advance the cause of education for several reasons.

First, I firmly believe that the organization of the Federal Government should reflect the value which our society than the budgets of the State, Interior, and Justice Departments combined.

With passage of H.R. 2444, the role of the Federal Government in helping disadvantaged students, expanding educational opportunities, and exploring new approaches to new educational problems would acquire more visibility. And the State and local contributions to education would be enhanced, as a Department of Education would provide a highly identifiable forum for their problems.

Third, I believe that the placement of many education programs in the Department of HEW has hampered evaluation of these programs on their own merits, especially with regard to budgetary decisions.

Between 1966 and 1979, the Office of Education's share of the total HEW budget has declined from 11.5 percent to 6.3 percent. Most of this decline can be traced to a single organizational problem. Some 70 percent of the HEW budget—or more depending on the definitions used—is wrapped up in so-called uncontrollable expenditures.

While these uncontrollable expenditures are very important to our national well-being, their growth from $45 billion in 1970 to $132 billion in 1977 has created a situation where adequate appropriations for education become more impossible each year.

Because education programs constitute 60 percent of the controllable expenditures in the Department, they have too often been the target of past ad-injecting further Federal control since the degree of authority, programing, and involvement of the Federal Government in local educational matters lies with the authorizing and appropriating committees of this Congress, and we are not embarking on a policy of increased controls.

What we are talking about is streamlining. Cutting the layers of bureaucracy and redtape which promote inefficiency and delay in the delivery of services.

When dealing with the $180 billion bureaucratic giant which we call HEW, frequently education is overlooked or assigned a lower priority it deserves simply because more dramatic or urgent matters related to health and welfare require considerable time, energy, resources, and attention. While health and welfare matters do in fact require immediate and a more short-term attention, a better education is the underlying long-term solution to many of the most pressing problems of our society, including health and welfare problems. Ultimately the strength of the Nation depends on the education of its people. As our people—poor, middle class, or rich become better educated, our culture, civilization, and quality of life will attain higher levels. If we allow our educational services to deteriorate, we will by aiding and abetting the human degradation of our citizens and eventually the debilitation of our Nation

Nowhere in the civilized world is education almost relegated to the ranks of a secondary agency. More than just for prestige and aesthetics, a Cabinet-level Department of Education is needed if places upon education. At the founding of our Nation, education was perceived as the cornerstone of our democratic system. I feel this still holds true.

More Americans than ever—nearly 1 in 3—participate in education in some way. Education also comprises a major sector of our economy, with 38 percent of the general expenditures of State and local governments going toward education. Increasingly, our citizens are looking toward education to ease national problems such as unemployment, poverty, and crime.

If these high hopes are to be fulfilled, the best possible educational leadership will be required. And to my mind, a separate department of education would be the best way to give this important enterprise a strong voice in the Federal Government. Passage of H.R. 2444 would demonstrate that we all take very seriously the challenges education must face in the future.

Second, the Federal Government already makes a substantial enough contribution to education to constitute a department of manageable size. The Federal Government spends almost $13 billion a year to carry out educational missions which State and local governments are unable to support with their own resources. And this dollar figure only includes programs in the Education Division of HEW.

The scope of this Federal commitment to education becomes even more apparent when compared with the budgets of existing departments. The Education Division's budget exceeds the budget authority of six departments, and is greater ministration attempts to trim the HEW budget. And consequently, a great deal of energy has been expended by Congress and the education community in years past trying ot bring education appropriations up to a decent level.

While Secretary Califano, through his strong leadership, has done his best to see that this does not happen, I fear that in years ahead, under future administrations, education may once again be forced to assume an overly large share of the budget discipline imposed on HEW.

Placing education in a separate department would withdraw this invitation for budget cutting. The new organization as a department would insure that funding decisions for the different programs would be considered on their own merits, rather than according to how they stack up against other HEW budget restrictions.

Mr. Chairman, for these reasons and the many others admrably put forth by my colleagues, I urge the Members of the House to show sensitivity to the needs of education in this country by passing this crucial piece of legislation.

Mr. HORTON. Mr. Chairman, may I inquire as to how much time we have remaining?

The CHAIRMAN. The gentleman from New York (Mr. HORTON) has 45 minutes remaining, and the gentleman from Texas (Mr. BROOKS) has 70 minutes remaining.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from South Dakota (Mr. ABDNOR).

(Mr. ABDNOR asked and was given

permission to revise and extend his remarks.)

Mr. ABDNOR. Mr. Chairman, reaching a decision on H.R. 2444, authorizing a Cabinet-level Department of Education, has been one of the most difficult tasks I have had since coming to Congress.

The basic argument of trying to get all Federal education programs under one roof, speaking with one voice and intent and accounting to one source, has a certain logic and merit.

It appealed to me to the extent that I cosponsored legislation in the last Congress and was inclined to support it again this year.

A number of considerations have prompted me to change my mind.

The crux of the decision we will be making rests in the answer to one question:

Will the children of this Nation benefit?

Where their education is concerned our good intentions cannot justify mistakes.

Their future—indeed, this Nation's future—is too important for us to risk jeopardizing their education in any way.

Other questions associated with the debate on the separate Department of Education also are valid: How much will its administration cost in the long run? Will it be more efficient? Will there be better accountability? Will more bureaucracy bring order to the myriad Federal education programs? Is this the several of our other Cabinet departments.

I have to ask: Why is not the Department of Education the place for CETA if it is the place for the Office of Education's vocational programs? Why do not we have Head Start if we have elementary and secondary? Why some health education programs, not others?

The problems with H.R. 2444 are not unlike those which arose during our consideration of the Consumer Protection Agency when we had to exclude one group after another.

If the idea is so good to begin with, why must we have all the exemptions?

If a Department of Education is good for education, why are so many education programs left out?

As I considered H.R. 2444, these questions occurred to me again and again.

How much will its administration cost in the long run? I begin to worry whenever Congress authorizes anything with the phrase "such sums as may be necessary." This phrase is not an invitation to save money; to some it is an invitation to see how much can be spent.

Those who believe a separate Department of Education, authorized to spend "such sums," will make much effort to hold the line on expenditures have not paid much attention to what has happened when other departments were created under similar pretenses.

Currently the Federal Government is providing about 8 percent of the school budgets of this Nation. One of the strongest proponents of this meas-

to local school patrons who foot most of the bill. As the burden of funding educational programs passes to the Federal Government, it can be expected that education department officials ultimately will have more say than the local school board, despite the good intentions stated in section 103 of H.R. 2444.

Further, in our concern for retention of local control, we also must be wary of the precedents set in this bill for direct operation of schools.

I will not dwell on the transfer of the Department of Defense dependents schools, other than to note that this is the one exception I would allow in a Department of Education bill. DODDS should not be included because they are a unique entity wherein the Department of Defense assumes the role of school administrator and Congressional Armed Services Committee are the board of education.

DODDS is a school system, not an education program in the context of other education programs to be included in the separate department.

Will more bureaucracy bring order to Federal education programs?

This is what we hoped would happen when we created the Department of Energy. Once more, our intentions were good; our results are near disaster

Much is made of the bill's personnel reduction provisions. I do not question our good intentions of limiting the number of education department personnel as set out in H.R. 2444. On previous occasions, however, we have set personnel best way to get rid of any problems in our current programs? Is it really needed? Can we successfully keep local control?

These questions demand answers, but the bottom line remains:

Will the children of this Nation benefit?

A separate Department of Education is a valid option which must be thoroughly and actively considered in seeking the best means of helping our children obtain the skills and learning they will need to meet their future challenges.

That a Department of Education, training and careers might provide a better solution to our chronic problems of unemployment and underemployment which beset young people—particularly minority young people—than our habit of enacting crash public service training programs was a prime consideration when I joined our former colleague, the Honorable Al Quie, in sponsoring H.R. 6157 in the 95th Congress.

This measure was far from perfect, but it was more forthright at the outset than the measure we are considering today. In addition to Office of Education programs, H.R. 6157 incorporated many of the vocational education and training programs which, under H.R. 2444, remain scattered throughout the bureaucracy.

As I see it, one of the most serious problems with H.R. 2444 is that it purports to reorganize education programs into one department, but in reality it consolidates and transfers comparatively few of them despite the fact it will start out with more personnel than ure, the National Education Association, is firmly and repeatedly on record advocating Federal participation of one-third. One can be certain that if participation expands, administrative costs will escalate.

Down the road, as we start appropriating "such sums" in accordance with a better coordinated federally mandated educational policy, what becomes of the diversity, the opportunity for innovation and the alternative choices which are now part and parcel of local control?

Will we completely abandon the concept of bloc grants and the opportunities now available under programs like revenue sharing? Will these be sacrificed to expanded categorical grants-in-aid determined and regulated by the policy then current?

A partial answer to this question, I submit, may be found in the original decision of the House when we voted to cut State revenue sharing from the first budget resolution. In South Dakota and in a number of other States, State revenue sharing is devoted exclusively to the support of local schools—no strings attached.

This decision—even though amended somewhat by the conference committee—does not bode well for retaining local control, regardless of our good intentions.

Will a separate department be more efficient? We have no indications of how new efficiences will be accomplished despite the good intentions of those who propose to effect them.

Will there be better accountability?

The local school board and school administrators are currently accountable limits for the White House, but this has never stopped the White House staff from growing. They merely "detail" people from other departments to serve their purposes.

Is a separate department the best way to get rid of the problems bogging down current programs?

Proponents of H.R. 2444 point out that currently routine regulations which must be published before funds can go to needy school districts and students take an average of 519 days to be issued. They claim a Department of Education will cut this time approximately in half by eliminating 15 offices from the clearance process.

This may be well and good. But, if this bottleneck is so clearly identified already, do we need a separate Department of Education to get rid of it?

Could not some administrative action take care of it better and faster?

And, perhaps more important: Are needed checks and balances in jeopardy?

Can a Department of Education avoid politicization?

I believe the answer is "No."

Federal policymaking—and a Federal Department of Education will be making education policy as a matter of course—is, of its nature, politicized.

Mr. Chairman, these are some of the concerns which have gone through my mind as I have considered H.R. 2444.

I must also mention a broader concern.

My mail—my visits to South Dakota—your mail—your visits to your districts—all point to one fact:

The American people are fed up with Government interference.

They are tired of all the problems, the costs, the redtape, the regulations and the irritation they have—thanks to EPA, OSHA, MESA, HEW, IRS, CPSC, and the layers upon layers of bureaucracy of the programs we have enacted, supposedly for their protection and benefit.

They are sick of the expense. They are sick of the paperwork.

Most of all, they are sick of inflation which these programs cause.

A small sampling of South Dakota opinion is contained in this editorial from the May 25, 1979, edition of the Rapid City, S.D., Journal:

EDUCATION SUPER-AGENCY NOT ANSWER TO PROBLEMS

Establishment of a federal cabinet-level Department of Education isn't the way to solve the problems which face education in this country.

There are problems. In spite of money, resources and commitments on national and local levels, test scores and enrollments are declining and costs and headaches are increasing.

The question is who should solve the problems? Should they be solved in Washington or at home?

That's the central issue in the debate over legislation to establish a separate Department of Education. The Senate has passed its version of the bill, backed by President Carter, by a comfortable 72 to 21 margin. A similar bill passed a House committee by a 20 to 19 vote. All that's required now is for the full House to go along and the president will have fulfilled a campaign promise to the powerful National Education Association. That promise won an NEA endorsement, considered a critical factor in Carter's election in some states.

concerns we have all had over retention of local control and bureaucratic growth.

Commendable though their efforts be, doubts remain over local control, over costs, over bureaucratic growth, over politicization, over the exclusion of some programs, over academic freedom, over accountability, over the future of what has come to be known in this country as our tradition for educational excellence.

If we approve this bill, there is no turning back.

There will be no Presidential veto.

There will be no effective sunset provision.

In time, regardless of all the steps we may take to prevent it, executive orders and reorganization schemes may transform any department we create, congressional intent nowithstanding.

Good intentions are not enough.

As I said at the outset: Our decision must hinge on one question:

Will the children of this Nation benefit?

If we have any doubts at all, we should not vote for a separate Department of Education.

My doubts have caused me to change my mind about a Cabinet-level Department of Education and I intend to vote against this proposal.

Mr. HORTON. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. SHUMWAY).

(Mr. SHUMWAY asked and was given permission to revise and extend his remarks.)

GI bill was adopted as the law of our country. Its purpose was to ease the transition of servicemen to civilian life and to prevent large-scale unemployment, but not as an aid to education per se.

In the 1950's, after the Sputnik success of the Russians, we became concerned about the status of our scientific programs, and as a result we adopted the National Defense Education Act to sponsor science, not to aid education.

In 1965 we enacted the massive Elementary and Secondary Education Act as part of President Johnson's war on poverty program. The emphasis was on compensatory education for the disadvantaged. It was a civil rights and income redistribution measure, not an aid to education measure.

I would suggest that programs for the handicapped, for those having English language difficulties, and for Indians, are largely civil rights measures, and the same is true of higher education. Programs to increase opportunities for low-income sutdents are not to aid directly colleges and universities.

It seems, therefore, that when we have embarked into the field of education, we have done so to serve Federal policies such as national security, antipoverty, civil rights, labor, child welfare, veterans' benefits, and many others. As a result, the Federal Government has never found it necessary to adopt an education policy.

As a further result, we find that these programs are scattered throughout the

Although the legislation was amended in response to concerns about adding to the federal bureaucracy and increasing federal control, it stretches belief to suppose a new department would cooperate in holding down its own expansion and its influence on those it is supposed to serve. Precedent is to the contrary.

The department itself is not protected from dominance by the NEA. The bill does not protect teachers from agency shops, a form of compulsory unionism, nor does it prohibit strikes.

We're not convinced that local control of education won't be diminished if the new department is authorized. There's a tendency on the part of the federal government to control what it funds: In recent years, as the federal share of educational costs has risen, local school districts have become increasingly ensnared by federal regulations. Creation of a separate Department of Education will only increase that trend.

Creation of a new department will increase the status and visibility of education in the federal government. What concerns us is its potential costs and the danger that it will lead to further centralization of educational policy—a responsibility that traditionally has been, and should continue to be, within the province of local school officials.

At a time when the federal bureaucracy should be contained and when there is a national concern over the problems of education, the last thing this country needs is to inflate the federal education establishment into a super-agency.

The House should defeat the legislation.

Mr. Chairman, in all fairness, I must commend the Government Operations Committee for the improvements they have made since H.R. 2444 was introduced.

They have made a concerted effort to include language addressing some of the various agencies and departments of Government because they were enacted to serve other established Federal aims.

Therefore, it seems to me that the real question here is not one of control, but the degree of Federal influence. Again, in spite of section 103, which I think is redundant and of little value—it does not curtail influence—I think the question will arise as to where the Federal dollars go and where they will be withheld in an effort to exercise that influence. What requirements will be attached to these dollars in order to exercise such influence. What approach will be adopted by the Federal Government as to teaching? What subjects would the Federal Government like to see schools teach?

It seems to me that only the most naive would believe that Federal priorities would not be applied through a Department of Education and eventually prevail.

Those in favor of the Department of Education argue that it would increase efficiency and coordination. It seems more likely, however, that such a department would seek endlessly to expand its authority and to increase its power. Such is the inherent nature of a bureaucratic agency.

There is clearly no consensus, even within the educational community, that a Federal Department of Education makes sense.

This bill was reported to the House by the Committee on Government Operations by a single-vote margin. The presidents of the University of California and of Stanford University, both located in

Mr. SHUMWAY. Mr. Chairman, I rise in strong opposition to the proposal before us this afternoon. I can imagine no legislation that would go farther in a direction which is adamantly opposed by the great majority of our constituents.

In spite of the rosy predictions about saving money and the disclaimers of section 103, I think a Cabinet-level Department of Education would serve to cost the taxpayers more money and result in more Federal intervention in local affairs.

The thing that bothers me most about this bill is not the threat of control of education by the Federal Government, although that is certainly an issue we need to address, but it seems to me the bill is a slipshod and perhaps a very ill-disguised attempt to create a national education policy and thereby break a long tradition of very limited Federal involvement in the national education scene.

The President of the National Education Association said recently, and I quote:

> Creating a Department of Education is, indeed, a profound step in which the Federal Government will be recognizing, for the first time, that it has a responsibility for education in and of itself.

It is true that we have authorized education bills and we have spent money for educational purposes in past years, but I would like to point out to my colleagues in the House that those authorizations and those expenditures have been made to serve purposes which are only indirectly related to education.

For example, after World War II the

my home State, strongly oppose the concept.

Perhaps the most compelling reason for voting "no" on this measure, when we do have a chance to vote next week, is that a Federal Department of Education is a threat to the local control of local concerns and problems. Our educational institutions are already overburdened with rules, regulations, and paperwork.

One example, of which I am sure my colleagues are aware, is the effort by HEW to apply title IX to colleges and universities in a fashion that certainly exceeds congressional intent.

Do we really want to create a department solely responsible for such activity? Do we want a monolithic program or a system which reflects the diversity which has made America the great country that it is?

Mr. Chairman, a recent poll of my constituents indicates that more than 70 percent oppose the creation of an education department. I share their view that we do not need a new bureaucracy and enhanced intervention to solve our education problems. Accordingly, I ask my colleagues to join me in opposing H.R. 2444.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I am happy to yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, along the lines of the gentleman's argument, with which I would like to associate myself, I would like to make reference to determine how many of them are really needed today.

Mr. SHUMWAY. I appreciate the gentleman's remarks.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

(Mr. BROWN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, the proposal we have before us to create a Federal Department of Education is very similar to a bill which was reported last year by the Committee on Government Operations, but was not considered by the House. Once again, the proposal brings a number of education-related programs together under one umbrella. Once again, the proposal omits almost as many education-related programs as it includes. And once again, the proposal, touted as a streamlining of the bureaucracy, makes obvious omissions for the sake of political expediency.

It is interesting to note that a number of organizations related to education in our society are willing to support the proposed department (or are, at least, unwilling to oppose it), but only on the condition that they not be included in it. Take for instance the child nutritionists who are accustomed to dealing with the Department of Agriculture and have no desire to disrupt an established relationship; or the science education people who wish to remain with the Na- schools in my district. These schools are springing up because parents feel they need more control over their children's education. They want teachers and administrators more responsive to their needs.

These schools are a local response to local needs. A Federal Department of Education would not help this movement because it could not be sensitive to their individual needs. The only approach the Federal Government can take to problems is a broad sweeping approach.

I also represent 10 institutions of higher learning. One of these is a technical or vocational education college of outstanding quality. In fact, the State of Ohio gave birth to this relatively recent development in education—these schools which teach young people technical skills with which they can go out and earn a good living and, at the same time, fill the community's need for skilled workers. These technical schools were created by local people responding to needs within their community. We are very proud of these schools in Ohio, as well we should be.

Also among these 10 institutions are two black universities. One of these, Wilberforce University, is one of the oldest black colleges in the Nation. It was founded because, during the days of the Underground Railroad, Wilberforce, Ohio served as one of the terminus points of the railroad. Wilberforce University was born of the need of the former slaves who settled in the area—a local response to a need within the community.

the contentions of the Office of Management and Budget.

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As I understand it, the administration does not claim a Department is necessary for developing a national education policy. On the contrary, Mr. McIntyre acknowledged that the Federal role in education is "limited and specific." This is a fundamental point that deserves emphasis. The proposed department is not intended to be an instrument for developing a Federal policy for education.

If educational policymaking is not at issue, then, what is the justification for a new Department? The administration bases its case on improved management. In Mr. McIntyre's words:

> The question before the Congress is simply this: How do we most effectively manage more than 150 Federal education programs? Do we do this through a separate Department, as the administration has proposed, or do we continue with the existing organization?

He then proceeded to present the case for a separate Department.

I would have no objection to giving education Cabinet status if this step were necessary to produce more effective and economical program management. I regret to say, however, that I am not persuaded that better management would automatically follow.

Of greater importance, I find it disappointing that the administration has not given attention to another management option—namely, a critical review of those 150-plus education programs to tional Science Foundation, or the Head Start program, or the veterans, or a long list of others who simply want to continue pursuing their missions without any additional bureaucratic interference.

In order to narrow the opposition to the bill, these programs were omitted from the proposal. And now I have learned that the nurses wish to be excluded. And the Indians can not abide the thought of leaving the Bureau of Indian Affairs for a Department of Education. I am wondering who wants to be included in this new department at all.

Mr. Chairman, this is not my primary objection to the bill, however. It is only an indication I wish to call to my colleagues' attention that many people and organizations deeply concerned with education, have strong objections to this department—so strong that they want nothing at all to do with it.

My primary objection rests on the question of who is going to run the schools in this country in the long run. Will they be run by the local school board which, in Ohio, is elected so that it must carry out the goals of the citizens and parents of the community? Or will they be run by theorists sitting hundreds of miles away in a Washington office building, trying to devise a program that will fit every possible need throughout the Nation, which will not, in reality, fit any single need.

Mr. Chairman, I represent 43 high schools in the Seventh Ohio District. Only two of these are, what has traditionally been viewed as nonpublic schools, or parochial. But we are seeing a large growth of 'Christian private

Also, I might point out, Ohio was the first State to provide higher education for women. Again, not because of Federal impetus, but because of the community's needs.

All of these institutions are unique. And because of this diversity in our schools, individuals in this country can choose a school which will serve his or her individual interests and desires. I submit that a Federal Department of Education would stifle this diversity by strongly encouraging, if not actually mandating, that principles devised by bureaucrats sitting in Washington, be applied across the board at all institutions.

We are not a nation of carbon-copy citizens. I believe this is what makes our Nation great. But we cannot continue to nurture unique individuals if our schools cease to be unique institutions, and I would strongly urge my colleagues to defeat this unwise—no matter how well-intentioned—proposal.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. CORCORAN).

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Chairman, I rise in support of H.R. 2444, which will consolidate existing Federal education programs into a new Department of Education. The proposal before us today is essentially the same bill developed by the House Government Operations Committee, on which I had the privilege to serve in the 95th Congress.

Although I was not an original cosponsor of that bill, I did join as a cosponsor of the product which merged from that committee, and I am a cosponsor of this bill, H.R. 2444.

While I respect the sincere concerns that opponents of this measure have expressed, I am convinced that its reorganization and management accountability advantages give us a good bill. However, before going into the merits of the bill, I would like to comment on its politics. As most people here know, President Carter made it a matter of partisan politics with the National Education Association in his 1976 campaign for the White House. Somewhat belatedly for those Republicans who worked on this issue last Congress, my party took up the issue a couple of weeks ago and decided to make it a matter of partisan politics.

Now, Mr. Chairman, let me make it clear that I do not fault the partisanship involved at all. Good, healthy partisanship recently produced important legislative changes in our allies, England and Canada, whereas we have not had a real change in the policymaking branch of our Government for 26 years. So, since I believe in the important governmental changes which partisan politics can, and indeed, should bring about in this country because of some basic problems plaguing us, I do not find anything wrong with making the Department of Education a political issue.

I just disagree with the conclusion reached by my party: and in a recent letter to our colleague Bob Michel, the distinguished minority whip, I went into this country are getting for their $25 billion of Federal money going into education.

Under the present scheme of things, we find Federal education dollars being spent in more than 40 different departments and agencies, including the Agriculture Department, the Labor Department, the Defense Department, the Interior Department, the Justice Department, and the Department of Housing and Urban Development, to name but a handful of the diverse agencies of Government here in Washington which currently have a hand in education yet have no education linkage whatsoever.

Because of the fragmentation and administrative chaos this presents both our Chief Executive and the Congress, H.R. 2444 serves an extremely valuable purpose in beginning the process of reorganizing these disjointed functions into one agency. It does not go as far as I would like, but in terms of management control over the programs involved, it goes three quarters of the way, and that is a good start.

Other supporters of the bill have debated its value in eliminating the current duplication of programs and overhead costs, so I will not go into that except to say that in matters like vocational education and manpower training, we must have better coordination between education and the world of work so that we begin to treat people as whole individuals, not program "types."

However, there is one last issue which needs to be addressed: The potential ingress and by additional legislative action after it becomes a reality. But it seems to me this is a good vehicle for reorganizing and providing a basis for better management accountability of the billions of Federal dollars we spend on education, and I urge the House to support it.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Hawaii (Mr. Akaka).

(Mr. AKAKA asked and was given permission to revise and extend his remarks.)

Mr. AKAKA. Mr. Chairman, I rise today to urge my colleagues in the House to support the creation of a Cabinet-level Department of Education. There is no question in my mind and in the minds of my colleagues that education and the education process is vital and very important to the survival and welfare of not only this generation but succeeding generations. And yet we have permitted our Federal Government to exist with a huge Department of HEW and to have education-related programs to be a part of a large department with two other agencies.

☐ 1800

The primary goal of this Federal agency is to improve the coordination of Federal education programs by eliminating unnecessary layers of the present bureaucracy.

It will not change the working relationship with the State, local, and private sectors. Instead, the primary responsibility for education will still reside this in more depth than is needed here.

As far as the connection between politics and Government is concerned, I want our next Republican President to have an executive branch organized along lines that permit management accountability; and I want—and probably have more optimism about this than most of my colleagues—a Republican Congress which, with a better organized executive branch, can better exercise legislative oversight of the bureaucracy.

Mr. Chairman, all my training and experience in business as well as public administration in the years before I came to the Congress convince me that Government reorganization in education is absolutely needed. People run this Government just as people run our businesses, our farms, our factories, our professions, our hospitals, and all our other private endeavors. And when we find that we in the Congress, and the President of the United States in his role as top manager of the bureaucracy, cannot easily identify personal accountability in education, then we have a serious institutional problem.

I believe this organizational problem of public administration must be corrected. We can disagree about how to reorganize the vast array of Federal education functions spread all over Washington with no interface whatsoever, but I do not think we should ignore the need.

In this fiscal year, we will spend almost $25 billion of Federal money on education and education-related functions. This is not State money; it is not local money. This is $25 billion of Federal money, and I think we ought to know who is spending that money and what the taxpayers in

trusion of Federal policy into local schools because of this legislation.

Mr. Chairman, this is one of the most serious concerns that people, including me, have had about this proposed new Department of Education. Like many other supporters of this bill, I did not come on board until this concern was adequately addressed.

In hearings before the House Government Operations Subcommittee on Legislation and National Security, on which I served during the last Congress, Charles B. Saunders, Jr., of the American Council on Education testified on this defect in the original bill and asked that strong language be added to the bill to prohibit Federal control of education.

During the markup of the bill by our subcommitee I offered an amendment which was accepted and I am pleased to say that this amendment is in H.R. 2444 as section 103. This section entitled, "Prohibition Against Federal Control of Education", contains a "* * * clear prohibitive on Federal interference in matters which have been traditionally left to be decided at the State, local, or institutional level. These locally decided matters include the curriculum, program of instruction, administration, personnel selection, selection of library resources, textbooks and other educational materials." as is pointed out in Committee Report No. 96-143 for H.R. 2444.

Thus this measure in no way, with this clear protection, can be construed as a means of federalizing our State and local schools.

H.R. 2444 is not a perfect bill. As I suggested earlier it can be improved during the legislative process in this Con-

with the State, local, and private institutions.

However, formation of a separate Department of Education will provide more reliable and more responsive support services to States, localities, educational institutions, and students, and will respond to their needs.

Two more related objectives of the Department of Education are greater accountability of and increased attention to Federal education programs.

The present structure of the executive branch does not allow sufficient consideration of education matters by the President, the Congress, or the American people. The Federal education programs are too often submerged beneath the Department of Health, Education, and Welfare's dominant responsibility to health and welfare. Nearly 90 percent of the total HEW budget is allocated to such programs as social security and medicare. Since Federal spending for education is included in this budget, Federal education programs are the prime targets for fiscal reductions.

The CHAIRMAN. The time of the gentleman from Hawaii (Mr. AKAKA) has expired.

(At the request of Mr. BROOKS and by unanimous consent, Mr. AKAKA was allowed to proceed for 1 additional minute.)

Mr. AKAKA. As a former educator, and with the support of our National Education Association and educators in my State, I firmly believe that quality education is essential to the continued development of our great Nation.

Therefore, most importantly, the great visibility of a separate Department of

Education will strengthen the Federal commitment to equal educational opportunities for every American.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. COLLINS.)

(Mr. COLLINS of Texas asked and was given permission to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Chairman, we are being asked to approve legislation to create a Cabinet-level Department of Education. We are supposed to fund this new department with $14 billion and staff it with 16,200 bureaucrats. It is interesting to note that there are 16,000 school districts in the United States, which sets up a bureaucrat-to-school district ratio of 1-to-1.

However, before we create this new all-powerful bureaucracy in Washington let us look at past experience. The last time Congress was asked by the administration to create a new Federal Department was in 1977. To solve our energy problems President Carter asked for, and received, a Cabinet-level Department of Energy with a budget of $5 billion. In only 2 years, energy has progressed from a problem to a crisis, and the Department of Energy's budget has increased from $5 billion to $11 billion. Overregulation of the oil and gas industry by the DOE has caused domestic production of oil and gas to decrease to the point where we now import half of our oil requirements.

By creating a new Department of Education, the same crisis will occur in education that has occurred in energy. The reestablish leadership in the local school board.

It is interesting to me to see how many organizations are opposed to the creation of an all-encompassing Department of Education. The AFL–CIO, the Washington Post, the Christian Science Monitor, the American Federation of Teachers, the National Catholic Education Association, and my State school board of Texas all oppose the new Department.

At a time when Federal interference is ruining our educational system by causing mismanagement, creating higher costs, decreasing teacher-principal discipline, and preventing a return to the basics in education, we do not need to enlarge the Federal Government's role in education. At a time of rampant inflation and huge budget deficits, we do not need a new bureaucracy that costs $14 billion a year to maintain, and is guaranteed to grow. All the money will just be used to increase the Federal regulation of education. And, Mr. Speaker, the country does not need, and cannot afford any more Federal regulation.

Let us sum up why the creation of a Department of Education is no good for the United States.

A separate Department means more spending. In 1977 Congress created a Department of Energy with $5 billion. In 1979 the Energy Department got $11 billion. And energy had grown worse from a problem to a crisis.

The Federal Government's active intervention in education began in 1964. School achievement has gone downhill ever since, as SAT grades decreased from

people who would support this Department that somehow this new Department of Education should become the focal point of education, that this should become the national focal point where education happens.

That means that education is no longer going to be child centered. It means that education is going to become program centered, because that is all this Department is about. It is about programs, more and more programs, bigger and bigger programs.

That is disturbing, because that leaves the child out of the equation and moves us toward the day when the whole idea behind education will be how effective are our programs. That is not measured in good learning. That is not measured in good education. That is measured strictly in redtape.

Now, the argument that this is not redtape, that it is not bureaucracy, that it is not programs, can be looked at simply by looking at the structure of the Department. We are creating in this Department—and I have a chart here to try to help the Members with some of the numbers—we are creating in this Department 90 new supergrades and executive-level postions. That means that we are going to increase executive-level positions in the Department alone on a permanent basis by 500 percent over what is now in the Office of Education. That is an extension of bureaucracy, pure and simple.

We are going to spend for those new supergrade and executive-level bureaucrats, $4.5 million, and we are going to educational problems in this country are not caused by a lack of Federal intervention but from too much Federal involvement. Under the programs of the New Frontier, the Great Society, and the "educational modernizations" of the 1960's, education in America drifted away from the basics of reading, writing, and arithmetic. Furthermore, the Federal Government became involved with education through forced busing, affirmative action quotas, and enforced educational experimentation which has greatly interfered with the discipline and authority of school principals and teachers.

This bill not only centralizes educational policy at the Federal level but it also mandates the new Department shall run schools. They will be in charge of all military base schools and Indian schools which means they will have the dual capacity of creating and carrying out policy. Their standards on books and courses for Federal schools could become "Federal guidelines" for all public schools who receive Federal money. Past experience would remind us that "Federal guidelines" usually become Federal regulations.

Results show that as Federal intervention in education increased, scholastic achievement decreased. In 1964 and 1965, when the Federal Government first decided to become involved in local eduational activities, the scholastic aptitude test (SAT) averages were 473 verbal and 496 math for a 969 total score. Every year since, there has been a steady decline in our students' test scores. In 1977 and 1978, the SAT averages were 429 verbal and 468 math for an 897 total. We must 969 total in 1964 to 897 in 1978.

This bill puts the Department in charge of schools, teachers, courses, and curricula at military bases and Indian schools. We should anticipate that these rules will become the guidelines and Federal regulations for local schools in a few years. Local school boards are best.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I thank the gentleman from New York for yielding to me.

Mr. Chairman, I would like to address the real nature of what we are doing with this Department of Education, because it seems to me that we have a long tradition in this country of offering outstanding education to youngsters. It is a 200-year history.

Over that 200-year history, the strength of education has been in its diversity. That diversity has come from the fact we have always believed that education should be centered on the child. Child-centered education has always been the most important thing in this country.

The way we centered it on the child was keeping this as localized as possible, starting with the one-room schoolhouse and building up through. We have always believed that the parents, the teacher, and the children, contributed something together and that nothing should interfere with that interrelationship, and particularly nothing should interfere with the relationship between the teacher and the student at the base.

Now we hear the argument from the expend that even more with their staffs by spending and this is based upon the staffs that went to the Department of Energy by another $3.2 million.

But even if you just take the $4.5 million that we are going to spend for the executive-level and supergrade positions, we find that we could hire 297 teachers at the average pay across this Nation for what we are going to pay for big-level bureaucrats in the Department of Education.

What does that say about our commitment to the teacher-student relationships, if instead of hiring teachers across this country, we are putting high-level bureaucrats in place?

We are going to be spending in this new Department $774 million for new paperwork, new paperwork that is going to be distributed at local school districts.

The result is that 968 new pieces of paper, that is almost 1,000, new pieces of paper are going to arrive at every school district every year, because of this Department.

Mr. HORTON. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. HORTON. I would like to know how the gentleman arrives at that figure of $774 million as the cost for the additional paperwork burden.

Now in the present situation, the way it is set up, we have to go not only from the Office of Education, but we have got to go through the assistant secretary level, and then we have to go through the Secretary level of HEW. There is a lot of paperwork. I am sure the gentleman will agree with me. There is a lot of paperwork there that will be eliminated by the creation of the new department, because we eliminate those levels of bureaucracy.

I am curious. As the gentleman knows, I served as the Chairman of the Paperwork Commission. I am interested in eliminating paperwork.

☐ 1810

Mr. HORTON. But I am at a loss to understand how you can keep the present Office of Education and not pass this bill creating a Department of Education and save $774 million on paperwork.

Mr. WALKER. I thank the gentleman for his question because I am well aware that he served as Chairman of the Paperwork Commission and, in fact, the statistics the gentleman developed as a part of the Paperwork Commission we used in order to develop this figure. The only way we felt we could do it, and admittedly it was a tough calculation, but the only way we could do it was take the number of pieces of paperwork generated by the Federal Government, which the gentleman's Commission I think did an outstanding job in setting down for us for the first time, and figure out how much of that is generated by each executive level and supergrade position. Then we took that times the new positions that are being created in this Department. If you take the new positions being created, you all of a sudden come up with how much additional paperwork is going to be generated from the Department. That is where the figure comes from.

It breaks down to the fact that we are What I am concerned about is the paperwork that is going to get out to the school districts because that is what we are concerned about. The internal paperwork that might be saved—we are not even sure of that—but what we are certain of is if you take all of these new Assistant Secretaries and new people that are going to have no other function but to generate paperwork, that paperwork eventually is going to end up back in the educational institutions; namely, the local school districts across this country. That is what we are concerned about in this Department.

Mr. ASHBROOK. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. The gentleman is absolutely right. And I have placed in the RECORD on three occasions this year some of the paperwork response that was generated under a law we passed in this House.

Quite often we pass laws and we never really pay much attention how they impact on people at the local level. The Federal Register contains the results. I would say about 90 percent of the paperwork burden created on local schools by our educational programs and on the States, which then require of the local schools, a lot of the paperwork burden comes from the State, but it is required by a Federal provision, the State school authorities. So, you add the two of them together and it came up to almost 5 million man-hours, or woman-hours, or construction or not. I do not know of any empty Federal buildings sitting around. But nevertheless, if it does go into a new building, the most recent HEW Building, the Hubert H. Humphrey Building, that particular building cost some $40 million.

I took the time to check and find out how much classroom space we might be able to build in this country.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HORTON. Mr. Chairman, I yield 5 additional minutes to the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 5 additional minutes.

Mr. HORTON. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. HORTON. I am at a little bit of a loss to know how the gentleman got the 90 new executive level and supergrade positions. According to the Congressional Budget Office estimate of May 7, they state that H.R. 2444 authorizes a net increase of 14 executive level positions and 42 supergrade positions, GS-16 to GS-18 to the current total. The gentleman saying 90. I cannot reconcile the 14 and 42 with the 90 that the gentleman has.

Mr. WALKER. Well, the gentleman has not included in that, of course, which I included, the 15 temporary positions created for a 3-year period at the executive level, and that also is being created as part of this department.

going to end up with nearly 8,000 new pieces of paper going into every school district every year. That is not what educators want. Educators have been told that this Department was going to eliminate paperwork, it was going to do something about getting rid of all of this redtape that they have been burdened with and they have been tied up with. Teachers tell me that I talk to that the real problem they face is the fact that they are spending less and less time teaching children and more and more time filling out paperwork from all levels of Government, most of the time emanating from the Federal programs.

Now, what we are going to do is end up giving them even further problems in that regard.

Mr. HORTON. Mr. Chairman, would the gentleman yield further?

Mr. WALKER. I will be glad to yield.

Mr. HORTON. I want to agree with you, that is what the Paperwork Commission found at different levels, and that is one of the reasons why I am convinced that the establishment of the Department will tend to cut down on paperwork, because there is an awful lot of paperwork generated at these two levels of HEW, at the Secretary level and at the Assistant Secretary level.

And it seems to me that, and I understand now what the gentleman pointed out with regard to how he got the figure, the gentleman has taken these supergrades at 90 and just multiplied by a number and come up with 774.

Mr. WALKER. I thank the gentleman for his point. But, you see, what you are talking about is internal paperwork, whatever the gentleman wants to call it, teacher-hours per year generated by our operations here. I think the gentleman is absolutely right. It will increase, not decrease, and anybody that thinks that it will decrease, I hope that we are around in a couple of years to remind them they said it.

Mr. WALKER. I thank the gentleman for that contribution because that is precisely the problem, and that is precisely the thing that has made educators I think somewhat enthusiastic for the idea of a Department of Education, because they have been told that it will decrease their paperwork, not increase it. But, when we sit down and look at the figures we see they will be deluged under more paperwork. I think the same educators today who are claiming they would be in support of the people who support this Department are going to be very much opposed to the people who have dumped all of that additional work on them for no good purpose in terms of education.

I come back to the point that that teacher-child relationship is the fundamental relationship, and anything which separates the teacher from the child; namely paperwork or namely big Government, is going to do a disservice to education. That disturbs me highly.

I think there is one other figure that we ought to think a little about too, and that is nobody has really mentioned the fact that we are going to end up with this Department that is going to have to go somewhere, going to have to be moved into a building somewhere. I do not know if that is going to result in new

I have reason to disagree with the gentleman's figure of 42. It seems to me that figures the gentleman has on that would be 61 supergrade positions that are included in the data. That is my understanding of the reservations that were set aside for this particular Department.

Mr. HORTON. If the gentleman will yield further, that only makes 71. I am still at a loss as to how the gentleman got 90.

Mr. WALKER. I am saying the gentleman has 61 supergrades plus 15 executive level positions, plus 15 more executive level positions which are created for a 3-year period.

Mr. HORTON. I have 14, 42, and that is 56. And then the gentleman says there is an additional 15. That is 71.

Mr. WALKER. I am disagreeing with the gentleman's figure of 42 because it was my understanding that the set-aside by the committee was 61 supergrade positions.

Mr. HORTON. That is the Congressional Budget Office estimate, not my estimate..

Mr. WALKER. I thank the gentleman. I am using the Congressional Budget Office's estimate, obviously, and that is where the figure came from.

Mr. HORTON. No, no, the gentleman misunderstood. The figure I am using is the figure that is in the cost estimate of the Congressional Budget Office. That is not my figure.

Mr. WALKER. OK. Excuse me. I misunderstood the gentleman.

My point is I am using the figures under the set-aside of the Post Office and Civil Service Committee. It is my understanding that they set aside for this Department 61 supergrade positions. I think that must be where the difference in our figuring comes.

Just to make my point that I had started on about the amount of classroom space which could be built in this country for the same cost as building one Federal office building, the newest Federal office building we are talking about, would provide about 733,000 square feet of classroom space. Once again, if we are really talking about that relationship of child and teacher, classroom space would certainly be more in keeping with that tradition than Federal office space.

The point is this, Mr. Chairman: The creation of the Department of Education presents very serious fundamental problems. To agree with the idea of this new Department, one has to believe that Government is the best when it is bigger. One has to agree that a more expansive bureaucracy will not be a more expensive bureaucracy. One has to agree that learning should ultimately be a function of Federal thinking. And one has to agree that educators are looking to Washington for educational leadership. Certainly, the proponents of this Department do not state their case in these terms but the essence of their argument is summed up on such a set of premises. If one has doubts about the validity of these maxims, one must have serious doubts about the creation of this Department.

• Mr. CRANE. Mr. Chairman, Thomas

in the argument that better education will result from a Cabinet-level Department of Education.

Mr. Chairman, far be it for me to rise in defense of HEW as it stands now.

Before many Members of this distinguished body either double-up in laughter or fall over in a death-like faint, let me clarify. I do not believe that Mr. Califano's amorphous Department is any better than ever. However, ironically, due to its unorganized nature, I believe the education of my children to be be safer than it would be were there a more organized Department.

It is a fact that since HEW was established around a quarter of a century ago, the Office of Education budget has exploded from a few hundred million dollars to more than 10 billion. Yet, even now, it is but 6 percent of the full HEW budget. Because of this weak link in the Department, I am sure that there exists a great deal of cross-purpose and self-cancelling activity between the many different facets of the Federal Government that deal with education. So, what do we do?

In defense of bad issues, bad arguments tend to be created. Since HEW is a bureaucratic nightmare, let us create a new Department, offer the proponents. To those distinguished colleagues, I would say, "Wait a minute." Why do we not just tighten up a system we have now? We need to examine the Office of Education, find out what the problems are, and solve them directly—not just shift the whole mess to another building.

body want to rush in where angels fear to tread, especially when our predecessors rushed into the same place unsuccessfully once before? In 1867, then Congressman James A. Garfield engineered the creation of a Department of Education. A year of nonproductivity encouraged the Congress to reduce the Department to Bureau status in the Department of Interior. The issue was raised again in 1923 when a Joint Committee on Reorganization issued a report calling for a Department of Education and Relief. Although Presidents Harding and Coolidge endorsed the report, Congress took no action.

Now the issue is before us again. The Members of this distinguished body are the last check on this piece of legislation; the congressional process is almost at the end. The finality of the action we take on this bill should give each of us pause. In most areas of our country, the little red schoolhouse is a thing of the past; should local control and variety in educational experiences be lost forever too, Mr. Chairman? I hope not.•

• Mrs. HOLT. Mr. Chairman, this is an interesting piece of legislation. There is hardly any public support for it outside the National Education Association, the big union which would gain power from it, and President Carter, who is fulfilling a promise to the NEA. I have difficulty finding Members of the House who really like this legislation, but we saw the overwhelming vote for the rule.

If this bill is enacted, it will authorize the creation of a national education sys-

Jefferson, in a letter to Henry Lee dated 1824, wrote:

> Men by their constitutions are naturally divided into two parties: (1) Those who fear and distrust the people, and wish to draw all powers from them into the hands of the higher classes. (2) Those who identify themselves with the people, have confidence in them, cherish and consider them as the most honest and safe, although not the most wise depository of the public interests. In every country these two parties exist; and in every one where they are free to think, speak, and write, they will declare themselves.

To the third President's discussion, I would only add that 200 years of our system of Government have provided many reasons to believe that the Federal Government is certainly a no wiser depository of the public interest than the citizens themselves and is undoubtably less safe and honest.

This is the crux of the issue before us today. Nobody on either side of the argument is attacking education. Each one of us in this Chamber holds education in high esteem; indeed, many of us are educators by profession. An informed and intelligent populace provides the cornerstone of our Government. Not one of us wants to weaken our educational system because we realize that by doing so we risk weakening America itself. The question we need to address is simply from whence the direction in this matter should come.

Proponents of this bill say that this control should lie with the Federal Government; others of us strongly disagree. Yet, before we even address this fundamental difference of opinion, attention must be drawn to the inherent fallacies

Moreover, the track record for single-constituency departments offers little reassurance. The Departments of Labor and Commerce provide case studies of neither/nor efficiency. In addition, such a situation is clearly dangerous. Any creation of a single-issue department risks that organization becoming an instrument of the specific constituency. In the case of the proposed Department of Education, this is a distinct possibility, and one of my greater concerns.

However, my greatest concern is more fundamental. Why are we creating a Federal Department of Education? By doing so, we place the responsibility for the education of our children squarely on the shoulders of Uncle Sam, a most precarious position indeed. The education of our citizens is critical to the public interest. Without an educated populace, our participatory Government could not survive. However, as Thomas Jefferson reasoned 150 years ago, the people—the citizens themselves—should be the keepers of the public trust—not those of us who frequent the Halls of Congress, not those Federal employees who occupy the offices downtown, and not those who sit on court benches and interpret the laws. Just as children differ, the needs of our schools differ. The best judges of these needs are the people closest to the schools and the students. Without a doubt, we here in Washington are farthest removed. Diversity is a strength of the American population; why should this not provide the foundation for our Nation's schools? A Federal education policy would squash any such hopes.

Why do Members of this distinguished tem directed by a central bureaucracy remote from the lives and concerns of our local communities, beyond the influence of parents, teachers, and students who will be subjected to its policies.

During discussion of a similar bill last year, our late colleague Leo J. Ryan was a member of the Government Operations Committee, but vehemently opposed the bill. Here is how he described it:

> It is more than a benign reorganization of the Office of Education. It is a massive shift in the emphasis by the Federal Government from supporting the local efforts of school districts and State departments of education to establishing and implementing a national policy in the education of our children.

There is the danger. That is why I feel compelled to urge my colleagues to defeat this bill. Instead of helping local school districts with funds for special needs, the new Department of Education would inevitably begin trespassing on all manner of local policies and management.

It could not be otherwise. By creating a Cabinet-level Department of Education, we would be elevating education to the status of a major function of the Federal Government.

I ask you whether this new Department, with the usual complement of supergrade positions, could restrain itself from attempting to impose its uniform solutions to real or imagined problems, regardless of local needs and concerns.

And who would have access to the policymakers of this Department? Not the students, teachers, parents, or neighborhood organizations—the natural constituents of our local schools.

The hierarchy of the National Education Association—a national union very active in political campaigns and lobbying—would be there to help shape the policies and decisions of the Department of Education.

The Washington Post, in an editorial last February 11, had this to say:

> A Department of Education, if such is unfortunately enacted into law, will become a gigantic, single-minded lobbying outfit. It will be the NEA writ large.

Would a Federal Department of Education have a role in curriculum development, in the development of textbooks and the other materials of instruction, in the methodology of teaching, in the measurement of student achievement? Of course, it would. The expanding bureaucracy could not keep its fingers out of those areas.

It would attempt to shape future generations of Americans according to political, social, and economic philosophies prescribed by functionaries far removed from our local communities and our local communities and our local values and traditions.

Many of us have become alarmed by the degree of Federal control that has already intruded into local schools through Federal aid programs. This concern is shared by many teachers, and one of them has just written me to express her alarm:

> I am against any expansion of Federal control over the public schools. I do not believe there is any clear justification for this separate Department of Education.

That sums it up very well. The issue is one of control, and there is no clear

Under the simpler structure proposed for the Department of Education, the number of offices involved in the preparation of the education budget will be reduced from 25 to 10. This would eliminate about 40 percent of the time—unnecessary delay—in this important process. These are just two examples of improved management and efficiency under H.R. 2444.

GREATER ACCOUNTABILITY

One of the most important features of the bill we are considering today is that there will be greater accountability. One Cabinet member would report directly to the President and could be held accountable to the Congress and all Americans for the responsiveness and efficiency of Federal education programs.

States and localities have primary responsibility for education. Formation of the Department of Education is meant to provide simpler, more reliable and more responsive support to States, localities, public and private institutions which provide education services. For the first time, it will give the education community a direct line of Cabinet-level contact with the Federal Government. As was stated in a memo to me from the National Conference of State Legislatures in a discussion of this bill, "Rather than a coherent, visible, and accessible administrative structure in Washington, we find a crazyquilt pattern that has the effect of limiting access to State and local officials who must deal with a broad range of policy concerns." Many of the problems these officials are encountering can be solved by the establishment of a

erly the responsibility of States, localities and public and private institutions. In fact, this new bill will provide a stronger and clearer voice for local and State education. In my book, the diversity found throughout the country, from school district to school district is crucial, and I would never support an education bill that would serve to straightjacket these individual school jurisdictions.

Mr. Chairman, for the past two decades our Nation's schools have been hit by rapid social and economic change—change which is continuing almost daily. These changes justify a Federal education effort which is better coordinated and managed. I believe that a Cabinet-level Department of Education with a cabinet voice for education is what is needed.●

Mr. HORTON. Mr. Chairman, I have no further requests for time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

I move that the Committee do now rise.

The motion was agreed to.

☐ 1820

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444), to establish a Department of Education, and for other purposes, had come to no resolution thereon.

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reason why the Federal Government should control education at the elementary, secondary, or college level.●

● Mr. HARRIS. Mr. Chairman, education is essential to the economic and social well-being of this Nation. It is one of the Nation's largest enterprises. Nearly one-third of our total population—some 65 million Americans—are involved in some form of education. At the Federal level there are over 300 separate programs scattered throughout 40 departments, agencies, and bureaus. Many educational activities in the Department of Health, Education, and Welfare are sandwiched between major health and welfare activities. Students, teachers, and administrators are not getting a fair shake. A separate Department of Education makes sense.

IMPROVED MANAGEMENT AND EFFICIENCY

Consolidating education programs in a separate Department would give these programs the high-level leadership that is unavailable through the current structure. H.R. 2444 will eliminate duplication in the administration and staff support activities of the Office of the HEW Secretary and the Education Division. The elimination of 450 positions will save $19 million. One example of the elimination of duplication is the process for developing regulations. Routine education regulations—which must be published before funds can go to needy schools and students—take an average of 519 days to be issued. The Department of Education will cut this time approximately in half by eliminating 15 offices from the clearance process.

Department of Education with a Secretary who is responsible for the administration of Federal education programs. There is no question that this Secretary would be better able to bring the education concerns of all levels of government to the President's attention, and would be in a better position to coordinate Federal education programs with other Cabinet secretaries than any assistant secretary or commissioner.

IMPROVED COORDINATION OF EDUCATION-RELATED PROGRAMS

Formation of a Department of Education will provide greater coordination of local, State and national programs and related Federal activities. Job training and retraining programs as well as basic and applied research will be enhanced by an effective Department of Education. Further, it will allow, for the first time, high-level consideration of the impact of other Federal policies, such as tax and energy, on educational institutions and students.

MORE EFFECTIVE SUPPORT OF EDUCATION PROVIDERS

In the provisions of H.R. 2444, the Federal role in education is limited and specific. The tradition of State and local control is firmly rooted in this country. This legislation reaffirms the "Jeffersonian" principle of local public education at all levels. Federal policies, in the area of education, can only be changed by the votes of a majority of both Houses of Congress. This reorganization will, in no way, allow Federal control over education policies and decisions that are prop-

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, MONDAY, JUNE 11, 1979 *No. 75*

House of Representatives

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MATHIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 308, nays 28,

Fountain
Fowler
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland

Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan

Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst

Hammerschmidt
Hanley
Heckler

Pease
Petri
Peyser
Price

Wright
Wydler
Young, Mo.
Zeferetti

☐ 1240

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 7, the gentleman from Texas (Mr. BROOKS) had 1 hour and 6 minutes of debate remaining, and the gentleman from New York (Mr. HORTON) had 8 minutes of debate remaining.

The Chair now recognizes the gentleman from New York (Mr. HORTON).

☐ 1250

Mr. HORTON. Mr. Chairman, I had no

not voting 98, as follows:

[Roll No. 200]

YEAS—308

Abdnor
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bedell
Beilenson
Benjamin,

Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler

Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard

Devine
Dickinson
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.

Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McEwen
McHugh
Madigan
Maguire

Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Roberts
Robinson
Roe
Rosenthal
Roybal
Royer
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz

Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson, Colo.
Jones, Tenn.
Kazen

Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Pickle
Preyer
Pritchard
Pursell

Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—28

Archer
Ashbrook
Bauman
Broomfield
Brown, Ohio
Cheney
Collins, Tex.
Crane, Daniel
Derwinski
Goodling

Gradison
Hansen
Harsha
Jeffries
Latta
Loeffler
McClory
McDonald
Mitchell, Md.
Quayle

Ritter
Roth
Rousselot
Sensenbrenner
Shuster
Symms
Thomas
Young, Alaska

NOT VOTING—98

Addabbo
Akaka
Albosta
Ambro
Anderson, Ill.
Ashley
Badham
Beard, R.I.

Bingham
Bolling
Bonior
Bouquard
Breaux
Burton, John
Byron
Campbell

Chisholm
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle

Davis, S.C.
de la Garza
Dellums
Derrick
Diggs
Dixon
Dodd
Dornan
Duncan, Oreg.
Eckhardt
Evans, Ga.
Fary
Flood
Foley
Ford, Mich.
Forsythe
Frenzel
Frost
Fuqua
Giaimo
Goldwater

Holtzman
Ichord
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kindness
Lloyd
Lott
Lujan
McKay
McKinney
Marks
Mavroules
Miller, Calif.
Mineta
Moorhead, Pa.
Murphy, N.Y.
Ottinger

Ratchford
Rhodes
Richmond
Rodino
Rose
Rostenkowski
Rudd
Russo
Santini
Schulze
Simon
St Germain
Steed
Stockman
Stokes
Traxler
Treen
Watkins
Williams, Ohio
Wilson, Bob
Wilson, C. H.

further requests for time on Thursday, and accordingly I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I had no further requests for time on Thursday, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the substitute committee amendment printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FINDINGS AND PURPOSE

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Prohibition against Federal control of education.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Special Education and Rehabilitation Services.

Sec. 207. Assistant Secretary for Vocational and Adult Education.
Sec. 208. Office of Educational Research and Improvement.
Sec. 209. Functions relating to education of overseas military dependents.
Sec. 210. General Counsel.
Sec. 211. Inspector General.
Sec. 212. Intergovernmental Advisory Council on Education.
Sec. 213. Interdepartmental Education Coordinating Committee.

TITLE III—TRANSFERS

Sec. 301. Transfers from the Department of Health, Education, and Welfare.
Sec. 302. Transfers from the Department of Labor.
Sec. 303. Transfers from the Department of Defense.
Sec. 304. Transfers from the National Science Foundation.
Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Transfers from the Department of the Interior.
Sec. 308. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Reduction of positions
Sec. 404. Exclusion of overseas school personnel from limitation on positions.

PART B—GENERAL PROVISIONS

Sec. 421. General authority.
Sec. 422. Delegation.
Sec. 423. Reorganization.
Sec. 424. Rules.
Sec. 425. Contracts.
Sec. 426. Regional and field offices.

Amendments offered by Mr. ERLENBORN: In the following places, strike out the word "Education" and insert in its place "Public Education and Youth":

On page 51, in line 20;
On page 53, in lines 4, 5, and 7;
On page 55, in line 19;
On page 57, in lines 12 and 14;
On page 64, in lines 9 and 10, and 12;
On page 98, in lines 16 and 17, and 24;
On page 99, in lines 6, 10, 19, 20 and 21, and 22 and 23;
On page 100, lines 4, 17, and 19;
On page 101, in lines 5, 9 and 10, 13, and 16, and 23;
On page 102, in lines 13, 15, and 25;
On page 103, in lines 11 and 13; and
On page 104, in line 17.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that these amendments may be considered, although they address parts of the bill other than section 1. The amendments amend title 1, as well as other titles, to change the name of the Department, and the amendments in those parts other than section 1 are merely conforming amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

"Public Education and Youth," is more accurate a description of this department.

First of all, the Federal Government is involved only in public education, and so we should help to allay the fears of the private education community by making a reference in the title to public education.

Though there are manpower training programs and other adult programs in the Federal Government, none of those manpower training or adult education programs have been transferred, pursuant to this bill or the administration's proposal, into this new Department of Education. So the sole mission of the Department will be the public education of youth.

Therefore, Mr. Chairman, I think the proper title for the proposal before us is the "Department of Public Education and Youth," and I hope that the Members will support my amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I would point out, Mr. Chairman, that the bill explicitly provides that one of the purposes of the Department is to "support more effectively States, localities, and public and private institutions, students and parents in carrying out their responsibilities for education."

I believe that this language that we have in the bill is quite appropriate in the light of the contributions which private education has made and will continue to make to our American education system at all levels. The thrust of our educa-

Sec. 427. Acquisition and maintenance of property.
Sec. 428. Facilities at remote locations.
Sec. 429. Use of facilities.
Sec. 430. Copyrights and patents.
Sec. 431. Gifts and bequests.
Sec. 432. Working capital fund.
Sec. 433. Funds transfer.
Sec. 434. Seal of department.
Sec. 435. Annual report.
Sec. 436. Authorization of appropriations.
Sec. 437. Relationship to General Education Provisions Act.
Sec. 438. Technical advice.
Sec. 439. Alternative administrative structures waiver.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.
Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I offer this amendment to change the name of the proposed Department of Education. I think that the fact the administration sent this bill up here with the present title is indicative of the fact that they were moving in haste and did not give full and due consideration to what they were doing.

Mr. Chairman, just 2 or 3 years ago we created a Department of Energy. Now, we all know the tendency in Washington and elsewhere to refer to agencies of the Government by the initials of the name. So the Department of Energy is now universally referred to as "DOE." If we were to accept the title of this new department as proposed by the administration, it would also be "DOE."

Obviously this would be confusing. It would either require that everyone use the full name of each department, "Department of Energy" and "Department of Education," and eschew the universal and long-held practice of referring to a department by its initials or by an acronym.

To avoid this confusion I am proposing that we change the name of this department to the "Department of Public Education and Youth." I think the title, tional programs has been to treat public and private education without differentiating between the two.

Mr. Chairman, this amendment would run counter to that thrust, and I would, therefore, oppose the amendment.

Mr. HORTON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think this is a frivolous amendment. It does not have any substantive value.

I know that the gentleman from Illinois (Mr. ERLENBORN) is opposed to the bill. What he is proposing is an acronym for the name of this agency that would spell D-O-P-E-Y.

I think it is very frivolous, and we ought to do away with the amendment very quickly.

I might point out with regard to the substance of the gentleman's argument that there are several departments that do not go by their initials. For example, the Department of State is not "DOS," the Department of Agriculture is not "DOA," the Department of Justice is not "DOJ," the Department of the Interior is not "DOI," and the Department of Commerce is not "DOC."

So, Mr. Chairman, I urge the defeat of this amendment.

Mr. BURGENER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, would the chairman of the committee be kind enough to engage in a very brief colloquy with me?

Mr. BROOKS. Surely.

Mr. BURGENER. While this is not directly related to the amendments before us. I do want to ask a question early on in the debate.

There is in the Department of Health, Education, and Welfare the President's Committee on Mental Retardation. This is created by Executive order, as are many Presidential commissions. It is placed in HEW for housekeeping purposes.

My question is this: Is there direction anywhere in this legislation as to where various commissions and boards would go under the new organization? The one about which I inquire is the President's Committee on Mental Retardation, otherwise known as PCMR.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the chairman of the committee.

Mr. BROOKS. Mr. Chairman, I do not know what agencies or programs the gentleman is talking about specfically, but those that have to do with education would come from HEW into the Department of Education, and those that are primarily concerned with health might remain in HEW.

Mr. BURGENER. Mr. Chairman, the reason I am familiar with this one is that I did serve as chairman of it a few years ago. I was vice chairman and a member of the committee, and I have a very special interest in it. I have been advised by the commission that their functions are primarily health-related, and, therefore, under this proposed reorganization they would much prefer to remain under and be more effective un-

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: In the following places, insert the word "Public" before the word "Education":

On page 51, in line 20;
On page 53, in lines 4, 5, and 7;
On page 55, in line 19;
On page 57, in lines 12 and 14;
On page 64, in lines 9 and 12;
On page 98, in lines 16 and 24;
On page 99, in lines 6, 10, 19, 20, and 22;
On page 100, in lines 4, 17, and 19;
On page 101, in lines 5, 9, 13, 16, and 23;
On page 102, in lines 12, 15, and 25;
On page 103, in lines 11 and 13; and
On page 104, in line 17.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read ad printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, in spite of the fact that some of the amendments go to other titles of the bill. This again is in the nature of conforming to the principal change in the title.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. ERLENBORN asked and was given permission to revise and extend his really had not thought of it in those terms.

Mr. JACOBS. I was afraid of that.

Mr. ERLENBORN. I was thinking more on the intelligence level rather than the use of narcotics.

Mr. JACOBS. I understand. I wonder if everybody will understand, since it is, at best, ambiguous.

Mr. ERLENBORN. With the evidence of what is going on in some of our schools, it might have a dual application.

Mr. JACOBS. So that this would amount to an official recognition rather like recognizing the Government of mainland China; the new Department would recognize the use of narcotics in education?

Mr. ERLENBORN. As I understand it, the next Attorney General recently has said that he is in favor of legalizing marihuana. It likely will be the policy of this administration to legalize the use of marihuana, and since marihuana is already used extensively in our public school system, I think that the application of this acronym will have a dual application both to the intelligence level of those who propose the Department and also the practices in the schools.

Mr. JACOBS. So the gentleman is proposing that the Congress recognize the use of narcotics in education?

Mr. ERLENBORN. To not recognize it is to have one's eyes closed.

Mr. JACOBS. So the gentleman urges the adoption of the amendments on that basis?

Mr. ERLENBORN. I urge the adoption

der the umbrella of Health, rather than under the proposed Department of Education.

Mr. BROOKS. Mr. Chairman, I would be inclined to agree with the gentleman.

Mr. BURGENER. Mr. Chairman, I thank the gentleman very much for his response.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1300

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

remarks.)

Mr. ERLENBORN. Mr. Chairman, before we move on beyond the title of the new Department, let me again suggest to the House the confusion that would arise with two DOE's. The last amendment was not agreed to, possibly because the acronym for the Department of Public Education and Youth would be D.O.P.E.Y. or dopey. So I am proposing at this time a different change in the title of this new Department. These amendments would change the name of the Department to the Department of Public Education, DOPE. These amendments would be addressed to the concerns of the private education community, church-related schools, and so forth, that the Federal Government was moving into educational policymaking and would destroy their ability as private institutions not publicly supported to set their own educational policy. I think it should be the rule that the Federal Government leaves the private sector alone so that we can continue the diversity, the rich diversity in education that we have enjoyed in the past.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I have just been penciling this out several times, and I find that it comes out to DOPE. That is "dopey." Would that be to countenance the use of narcotics in education? Or how does it relate to narcotics? Why would the gentleman want to interject, shall we say, that into the proposed Department?

Mr. ERLENBORN. Mr. Chairman, I of my amendments.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendments which are basically the same as the previous amendments. I urge their defeat, because they are frivlous and of no substantive value. The Department of Education is a good title for this Department. I urge the defeat of these amendments.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I oppose the amendments for the same basic reason and ask for a "no" vote.

☐ 1310

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 17, noes 39.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1320

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 52, noes 310, not voting 72, as follows:

[Roll No. 201]

AYES—52

Abdnor
Ashbrook
Bauman
Brown, Ohio
Carney
Cheney
Cleveland
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Erlenborn
Gibbons
Goodling
Green
Guyer
Hagedorn
Hansen
Holt
Jeffries
Latta
Leath, Tex.
Loeffler
Lungren
McClory
McCloskey
McDonald
McEwen
Miller, Ohio
Myers, Ind.
O'Brien
Paul
Petri
Quayle
Robinson
Roth
Rousselot
Satterfield
Sawyer
Sensenbrenner
Shumway
Shuster
Snyder
Stangeland
Stump
Symms
Taylor
Thomas
Walker

NOES—310

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Cotter
Coughlin
Courter
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
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Nedzi
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Nowak
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Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Roe
Roybal
Royer
Runnels
Sabo
Santini
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—72

Addabbo
Ambro
Anderson, Ill.
Badham
Bolling
Bonior
Fary
Flood
Foley
Forsythe
Frenzel
Fuqua
Moorhead, Pa.
Murphy, N.Y.
Pease
Price
Rhodes
Richmond

partment" and insert in lieu thereof "office".

On page 53, in line 3, strike "Department" and insert in lieu thereof "Office";

In line 4, strike "Department" and insert in lieu thereof "Office";

In line 5, strike "..."Secretary" means the Secretary" and insert in lieu thereof "..."Commissioner" means Commissioner"; and

In line 6, strike "..."Under Secretary" means the Under Secretary" and insert in lieu thereof "..."Deputy Commissioner" means the Deputy Commissioner".

On page 54, strike out lines 14 through 25, and on page 55, strike lines 1 through 16 and insert in their place the following:

"SEC. 101. The Congress of the United States finds that—

"(1) education is fundamental to the development of the individual and to the growth of the Nation;

"(2) the current structure of the executive branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education, and Welfare, which of necessity directs its primary attention to the problems of health and welfare;

"(3) the primary responsibility for education has been and should remain with State and local governments, public and non-public institutions, communities, and families;

"(4) there is a continuing need to ensure equality of educational opportunity and to improve the quality of education and it is appropriate that there be an independent Office of Education in the Federal government to coordinate assistance to State and local governments; and

"(5) the number, fragmentation, and complexity of Federal education programs has created management problems at the Federal, State, local, and institutional levels.

Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Derwinski
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gray
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jenkins
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Bouquard
Breaux
Brown, Calif.
Burton, John
Campbell
Collins, Ill.
Conyers
Corman
D'Amours
Danielson
de la Garza
Derrick
Dicks
Diggs
Dingell
Dornan
Eckhardt
Edwards, Calif.
Evans, Ga.
Goldwater
Gramm
Hammerschmidt
Harsha
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kindness
Lloyd
Lott
Lujan
McKay
Marks
Mikva
Mineta
Rodino
Rose
Rosenthal
Rostenkowski
Rudd
Russo
Schulze
Steed
Stockman
Treen
Waxman
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

☐ 1330

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer a number of amendments, and I ask unanimous consent that they be considered en bloc. They incorporate only the technical changes required to create an independent Office of Education rather than a Cabinet Office of Education.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. McCLOSKEY:

On page 51, in line 19, strike "Department" and insert in lieu thereof "Office".

On page 52, table of Contents, Title II, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

Table of Contents, Sec. 207, strike out "Secretary" and insert in lieu thereof "Commissioner"; and

Table of Contents, Sec. 434, strike out "de-

which should be ameliorated by separating, simplifying, and decreasing the size of the U.S. Office of Education."

On page 55, in line 19, strike "Department" and insert in lieu thereof "Office";

In line 21, strike "Department" and insert in lieu thereof "Office"; and

In line 25, strike "Department" and insert in lieu thereof "Office";

On page 56, in line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 57, line 9, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

Line 12, strike "department" and insert in lieu thereof "office";

Line 12, strike "Department" and insert in lieu thereof "Office";

Line 13, strike "Department" and insert in lieu thereof "Office";

Line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 15, strike "Department" and insert in lieu thereof "Office";

Beginning on line 17 and ending on line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 19 and ending on line 20, strike "Department an Under Secretary" and insert in lieu thereof "Office a Deputy Commissioner";

Line 21, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner";

Line 22, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 23, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 24, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 25, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Beginning on line 25 and ending on page 58, line 1, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner".

On page 58, line 2, strike "Department" and insert in lieu thereof "Office";

Line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 5, strike "Secretary and Under Secretary" and insert in lieu thereof "Commissioner and Deputy Commissioner";

Line 8, strike "Department" and insert in lieu thereof "Office";

Line 9, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 18 and ending on line 19, strike "Department" and insert in lieu thereof "Office"; and

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 59, line 16, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 17, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 21 and ending on line 22, strike "Department" and insert in lieu thereof "Office";

Begining on line 22 and ending on line 23, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 24, strike "Secretaries" and insert in lieu thereof "Commissioners".

On page 60, line 2, strike "Secretary shall delegate to the Assistant Secretary" and insert in lieu thereof "Commissioner shall delegate to the Assistant Commissioner";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 21, after the word "Office" insert "of Special Education and Rehabilitation Services"; and

Line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

On Page 63, line 1, strike "SECRETARY" and insert in lieu thereof "COMMISSIONER";

Line 3, strike "Department" and insert in lieu thereof "Office";

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 5, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 6, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 8, strike "Secretary shall delegate to the Assistant Secretary" and insert in lieu thereof "Commissioner shall delegate to the Assistant Commissioner";

Line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 12, strike "Department" and insert in lieu thereof "Office";

Line 14, strike "Secretaries" and insert in lieu thereof "Commissioners";

Line 15, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 15, after the word "Office" insert "of Educational Research and Improvement";

Line 16, strike "Department" and insert in lieu thereof "Office";

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, after the word "Office" insert "of Educational Research and Improvement"; and

Line 22, strike "Department" and insert in lieu thereof "Office".

Page 64, line 4, strike "Department" and insert in lieu thereof "Office"; and

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 75, in line 10, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 16, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 76, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 17, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 17, strike "Department" and insert in lieu thereof "Office".

On page 76, line 23, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 77, in line 1 strike "Secretary and the Department" and insert in lieu thereof "Commissioner and the Office".

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Department" and insert in lieu thereof "Office"; and

In line 15, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 78, in line 17, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 79, line 7, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 80, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

On page 81, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 10, after the word "Office", insert "of Civil Rights";

Line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 16, strike "Secretary and the Congress by the Assistant Secretary" and insert in lieu thereof "Commissioner and the Congress by the Assistant Commissioner"

Line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 19, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 61, line 6, after the word "Office" insert "of Civil Rights";

Line 23, strike "Department" and insert in lieu thereof "Office"; and

Line 25, strike "Secretaries' 'and insert in lieu thereof "Commissioners".

On Page 62, line 1, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 1, after the word "Office" insert "of Post Secondary Education"

Line 3, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 3, after the word "Office" insert "of Post Secondary Education"

Line 4, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 7, strike "Department" and insert in lieu thereof "Office"

Line 9, strike "Secretaries" and insert in lieu thereof "Commissioners"

Line 10, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 12, strike "Secretary" and insert in lieu thereof "Commissioner"

Line 13, after the word "Office" insert "of Post Secondary Education"

Line 16, strike "Department" and insert in lieu thereof "Office"

Line 18, strike "Secretaries" and insert in lieu thereof "Commissioners"

Line 9, strike "Department" and insert in lieu thereof "Office".

Page 65, line 5, strike "Secretary" and insert in lieu thereof "Commissioner".

Page 66, line 4, strike "Under Secretary" and insert in lieu thereof "Deputy Commissioner"; and

Line 21, strike "Secretary" and insert in lieu thereof "Commissioner".

Page 68, line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

Line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Line 14, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 68, line 21, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 71, line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 72, in line 4, strike "Department" and insert in lieu thereof "Office";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 73, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11 strike "Secretary" and insert in lieu thereof "Commissioner";

In line 14, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 20, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 74, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

In line 8, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Department as the Secretary" and insert in lieu thereof "Office as the Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Department as the Secretary" and insert in lieu thereof "Office as the Commissioner";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 23, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office".

On page 82, in line 1, strike "Secretary" and insert in lieu thereof "Commissioner"; and

Beginning on line 12 and ending on line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 19 and ending on line 20, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 83, in line 1, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 2, strike "Department" and insert in lieu thereof "Office";

In line 4, strike "Secretary" an insert in lieu thereof "Commissioner";

In line 8, strike "Department" and insert in lieu thereof "Office;

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Department" and insert in lieu thereof "Office";

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Department" and insert in lieu thereof "Office".

On page 84, in line 2, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 23, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 85, in line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Secretary or in the Department" and insert in lieu thereof "Commissioner or in the Office";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

Beginning on line 17 and ending on line 18, strike "Secretary" for Department" and insert in lieu thereof "Commissioner for Office"; and

In line 19, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 86, in line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 14, strike "Department" and insert in lieu thereof "Office";

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 25, strike "Department" and insert in lieu thereof "Office".

On page 87, in line 4, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 8, strike "Department" and insert oin lieu thereof "Office";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner or the Office."

On page 91, in line 8, strike "Department" and insert in lieu thereof "Office"; and

In line 14, strike "Secretary" and insert thereof "Commissioner".

On page 92, in line 6, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 24, strike "Department" and insert in lieu thereof "Office".

On page 93, in line 5, strike "Department" and insert in lieu thereof "Office".

On page 94, beginning on line 4 and ending on line 5, strike "Department" and insert in lieu thereof "Office";

In line 9, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 10, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 11, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 12, strike "Department" and insert in lieu thereof "Office".

On page 95, in line 21, strike "Department" and insert in lieu thereof "Office"; and

In line 22, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 96, in line 19, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 21, strike "Department" and insert in lieu thereof "Office".

On page 97, in line 16, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 98, beginning on line 6 and ending on line 7, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 7, strike "Department" and insert in lieu thereof "Office";

Human Services, the Commissioner of Education,".

On page 102, in line 18, strike "Department" and insert in lieu thereof "Office";

In line 15, strike "Department" and insert in lieu thereof "Office"; and

In line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 103, in line 11, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 13, strike "Department" and insert in lieu thereof "Office"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 104, line 14, strike "Secretary" and insert in lieu thereof "Commissioner of the Office of Education".

On page 104, strike out lines 17 and 18 and insert in lieu thereof the following: "Health and Human Services, the Commissioner of Education,".

On page 105, in line 12, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 15, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 106, in line 4, strike "Department" and insert in lieu thereof "Office"; and

In line 19, strike "Department" and insert in lieu thereof "Office".

On page 106, line 25, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 107, in line 5, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 14, strike "Department" and insert in lieu thereof "Office".

Mr. McCLOSKEY (during the read-lieu thereof "Commissioner";

In line 16, strike "Department" and insert in lieu thereof "Office"; and

In line 24, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 88, in line 2, strike "Department" and insert in lieu thereof "Office"; and

In line 14, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 89, in line 1, strike "DEPARTMENT" and insert in lieu thereof "OFFICE";

In line 2, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 3, strike "Department" and insert in lieu thereof "Office";

In line 3, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 6, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 9, strike "Department" and insert in lieu thereof "Office";

In line 11, strike "Department" and insert in lieu thereof "Office";

In line 13, strike "Department" and insert in lieu thereof "Office";

Beginning on line 16 and ending on line 17, strike "Department" and insert in lieu thereof "Office"; and

Beginning on line 24 and ending on line 25, strike "Department or the Secretary" and insert in lieu thereof "Office or the Commissioner".

On page 90, beginning on line 2 and ending on line 3, strike "Department and the Secretary" and insert in lieu thereof "Office and the Commissioner";

In line 4, strike "Department or the Secretary" and insert in lieu thereof "Office or the Commissioner";

In line 13, strike "Secretary" and insert in lieu thereof "Commissioner";

In line 17, strike "Secretary or the Department" and insert in lieu thereof "Commissioner or the Office";

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 20, strike "Secretary or the Department-

On page 98, strike out lines 10 through 17 and insert in lieu thereof:

"Sec. 308(a) Section 19(d)(1) of title 3 of the United States Code is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

On page 98, strike out lines 18 through 24 and redesignate the following subsections accordingly.

On page 99, strike out lines 4 through 6 and redesignate the following subsections accordingly.

On page 99, in line 10, strike out "Under Secretary" and insert in lieu thereof "Commissioner"; and

In line 19, strike out "Assistant Secretaries of Education (6)" and insert in lieu thereof "Deputy Commissioner".

On page 100, in line 4, strike "Officers, Department of Education, (5)" and

Insert in lieu thereof "Assistant Secretaries and principal officers, Office of Education (11)"; and

Beginning on line 16 and ending on line 17, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 18, strike "Secretary" and insert in lieu thereof "Commissioner".

On page 101, in line 5, strike "Secretary" and insert in lieu thereof "Commissioner"; and

In line 9, strike "Department" and insert in lieu thereof "Office".

On page 101, strike out lines 11 through 13 and insert in lieu thereof the following:

(4) in section 314, by striking out "Secretary of Health, Education and Welfare" and inserting in lieu thereof "Commissioner of Education";

On page 101, strike out lines 16 and 17 and insert in lieu thereof the following:

"Health and Human Services, the Commissioner of Education,"; and On page 101, strike out lines 23 and 24 and insert in lieu thereof the following: "thereof "Health and ing). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with, and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California that the amendments be considered en bloc?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, this amendment would cause a very simple change in the bill. It would make the new Office of Education just that, an office of education. It would not elevate the present Office of Education to Cabinet level. The Commissioner of Education would remain a Commissioner of Education; he would not be a Cabinet-level Secretary of Education. The rest of the amendments carry out that theme.

This amendment, Mr. Chairman, is based upon the acceptance of the primary argument for separating the Office of Education from HEW, and that is because the umbrella of Health and Welfare, the budget, the problems, and the policy decisions of Health and Welfare have submerged the Office of Education to the point where if your constituents wish to get a decision on education, or if your State Superintendent of Public Instruction wishes a decision on public education, he cannot get it. It seems to me, in reviewing the arguments of the distinguished chairman, the gentleman from Texas, in favor of a new Cabinet-level Department of Education, we will note that in his advocacy he concedes that there will be no policymaking. There is no national education policy.

□ 1340

Clearly we do not want a national education policy. If you will look at the Office of Education it is essentially a collection of some 150 programs which assist and coordinate assistance to local and State school districts. It is not a policymaking office; its programs either assist, coordinate or it merely writes checks for formula distribution of moneys such as the ESEA or impact aid programs.

It is absurd and bizarre to add a new Cabinet officer who will not have a policy advisory capacity to the President of the United States. There is no reason for a Cabinet officer to sit in the Cabinet to add to the debate, to add to the discussion, to add to the complexity of governmental decision if that Cabinet officer has no rights and no power and is desired by the Congress not to create a Federal education policy.

Let us look at what is our primary task in this Congress. I think all of us have conceded from the day we took our oath in January that our mission was to cut the size, cost and complexity of government. We seek to assign one task of government to one level of government.

There is no need for a local school board, a county school board, a State department of education and, also, a Federal cabinet department of education when we have clearly specified that the Federal function should be nothing more teacher, an excellent principal, an excellent school board, an excellence at the local level which provides an example with which others compete.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. McCloskey was allowed to proceed for 1 additional minute.)

Mr. McCLOSKEY. The best of our teachers will concede, and the members of the NEA who have lobbied for this bill will concede that they do not want Federal direction, they do not want Federal policy, they do not want Federal control of education. But by creating a cabinet level office we infer that the next step is a Federal education policy.

If there were one example we could find of excellence coming from Federal policy I might have a different view on this legislation but it seems to me appalling in a year where we are cutting the size of Government we should create a new cabinet office. To do so runs counter to the other trends we have pursued in the 96th Congress to date.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Glickman and by unanimous consent Mr. McCloskey was allowed to proceed for 1 additional minute.)

Mr. McCLOSKEY. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman's amendment is a very important amendment from California. I think it to be an excellent one. I served on the rubcommittee that studied the Cabinet-level Department of Education and studied this bill and reported the bill out to the full committee.

Mr. McIntyre testified before that committee. The question was asked, could we not do this reorganization within the present structure. The answer was, well, we could but we really have not looked at that alternative, we would rather have this alternative of a seperate Cabinet level.

In this morning's Washington Post, Mr. McIntyre has an article rebutting some of the Post editorials on the Cabinet-level department. One of the things Mr. McIntyre says is—

> The issue before the House involves a choice between 2 alternatives. Members can vote for a Department of Education or by voting nay on the question they can retain the status quo.

That is apparently wrong because we do not have to accept the status quo. There is another alternative, another choice and I think the gentleman from California has given us that opportunity.

Many of the Members have said one of the reasons they are voting for the Cabinet-level department is to break up HEW and the gentleman's amendment will break up HEW and bring education out of that bureaucracy.

Mr. McIntyre goes on to make the point:

> Shifting education programs to a separate department would directly eliminate most of the bureaucratic layers necessitated by the

than to assist and coordinate.

The findings of the proposed amendment I offer states this:

> The current structure of the Executive Branch unnecessarily submerges the Office of Education in the large and unwieldy bureaucracy of the Department of Health, Education and Welfare.

That, the chairman has said and the ranking minority member has said, and the primary reason for this bill is conceded, is to get education out from under this all-encompassing umbrella of HEW.

We recognize in the findings: "The primary responsibility for education has been and should remain with State and local governments, public and nonpublic institutions, communities and families."

We accept that it is appropriate that there be an independent Office of Education in the Federal Government to coordinate this assistance. We recognize that the number, the fragments and the complexity of the Federal education programs has created management programs and that we can solve that management program by creating this separate office.

I ask if in any of the debates there has been a valid argument made as to why the head of the Office of Education ought to be at Cabinet level when there is no national education policy and it is our direction there not be a Federal education policy.

We have found that excellence in education has essentially come from the bottom, not the top. I would chalenge anyone in this Chamber to point to one Federal mandate, one Federal policy that has provided excellence in education. Excellence may come from an excellent

ment and I would perhaps, to go over the same territory, point out that the gentleman proposes separating the Office of Education but not elevating it to Cabinet-level status.

Mr. McCLOSKEY. That is correct.

Mr. GLICKMAN. Mr. Chairman, where would, physically, that Office of Education be? That is, under whose jurisdiction?

Mr. McCLOSKEY. It would be under a commissioner of education who would have the same powers that the proposed Secretary of Education would have had except he or she would not be a Cabinet officer.

Mr. GLICKMAN. Would it still be within HEW's umbrella?

Mr. McCLOSKEY. No. The purpose of the amendment is to take education out from under HEW.

There is no way, with the responsibilities that Secretary Califano or any of his successors may ever have, that they will be able to devote time to the problems of education. That has proven true over the last decade.

Mr. GLICKMAN. Mr. Chairman, I think the gentleman's amendment speaks to the fact that education needs separate status but does not need Cabinet-level status.

Mr. Chairman, as one who has spent some time on a school board I think this is a productive amendment and I urge it be adopted.

Mr. STANGELAND. Mr. Chairman, I move to strike the last word and will speak in support of the amendment.

Mr. Chairman, I rise in support of the amendment of the gentleman from Cali-

HEW structure.

The gentleman's amendment will eliminate that bureaucratic lair.

Mr. McIntyre goes on to say:

> It would save money by eliminating 450 Federal positons. In fact, the bill before the House requires these positions be cut within 2 years.

Let me say that if those 450 positions can be eliminated under the bill before us they will be eliminated under this amendment as well.

Mr. McIntyre goes on to say:

> A second question raised by the Post is what effect the proposed reorganization might have on the Federal role in education. The same question needs to be asked regarding the current organization. What would keeping the education programs in HEW mean to education policy making?

No matter what amendment we put on this bill saying we are not going to have Federal policy, it is clearly the intent of the Federal policymakers to establish an educational policy on the Federal level.

Mr. McIntyre goes on to say:

> But the historical lack of an effective administrative structure has not in any way hindered the growth of Federal education programs. What it has hindered is the kind of management control over such programs that would insure a better return on tax dollars.
>
> As long as education programs remain sandwiched in HEW between the Government's giant health and welfare function, full management control will remain elusive.

What is the bureaucracy's intent?

Mr. McIntyre goes on to say later in the article:

Instead of being buried 3 levels deep in a $200 billion bureaucracy where only the professional draftsmen can keep track of them, such programs will be exposed to the full light of public notice.

I submit, adopting the amendment of the gentleman from California will take education out of that bureaucracy. It will assure those people who are concerned about the role of the Federal Government in education that this department or this agency will not be policymaking.

Let me say that in our subcommittee representatives of the National School Boards Association, representatives of the National State Legislatures, representatives of the National PTA came to us and all made the qualification that they were for the cabinet-level department so long as it did not get into the Federal policy, so long as it did not establish Federal policy.

☐ 1350

Well, I submit that the intent down the road is that there will be a Federal policy in education. Adopting the amendment of the gentleman from California will assure this body, will assure this country, that we will have a separate Department of Education. It will be visible. It will have emphasis, but it will not get into the policymaking points in education.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, at the outset I would indicate that I certainly respect the good intentions of the gentleman from California. I feel that the bill that is before us, which does have a prohibition against Federal direction of education, is sufficient, especially if we maintain oversight and make certain that the mandates of Congress are carried out. I am opposed to the direction of local education or State education by the Federal Government; but the establishment of an office of education as a separate entity is not going to solve that problem.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will when I get through.

But the point I am making is that by just creating an office, a separate office, we are degrading education.

Now, one of the most serious problems we have in this country involves education. We spend billions of dollars each year on education and a lot of it is wasted in paperwork. It is wasted in the bureaucracy. It is wasted in not getting programs to the people who want them.

Now, what the gentleman from California and the gentleman from Minnesota want to say to us is, "Yes, we agree with that, but we do not want a Department of Education. We are going to keep it down at some independent level. True, it will report to the President, but it will not have secretary status."

Now, education is too important for that. The fact that we create a Department of Education is not in and of itself going to create Federal intervention in the process of decisionmaking by State and local boards of education. We are that has to be determined at the Federal level.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON), has expired.

(At the request of Mr. STANGELAND, and by unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I thank the gentleman for yielding. I just have a couple of questions. Was there evidence or testimony in our committee as to the quality of education in this country as compared to any other country in the world?

Mr. HORTON. I do not recall, but I have a recollection that there was concern about the quality of education in this country, yes.

Mr. STANGELAND. I think, if the gentleman would read the committee records, they would show that.

Mr. HORTON. I sat there for all of it, but I just do not recall.

Mr. STANGELAND. It would show that our educational system was the best in the world and in comparing our educational system with those countries that have——

Mr. HORTON. Best compared to what? I will recoup my time. Compared to what? We have a deficiency in the ability to educate people in this country. We need to train and educate people so that

California (Mr. McCloskey); however, I would like to point out that both the gentleman from California (Mr. McCloskey) and the gentleman from Minnesota (Mr. Stangeland), both members of the committee, have consistently opposed this legislation.

As a matter of fact, the arguments that they make for creating a separate office of education are in line with the arguments that those of us who support the Department of Education have made consistently, namely, to get it out of the bureaucracy of HEW. One of the arguments that I made during the general debate the other day was that it is important to create a Department of Education so that we can get it out of the HEW bureaucracy and eliminate the 450 bureaucratic jobs that are now involved because of its location in the Department of HEW; so the arguments that they are using for creating a separate entity or a separate organization apart from HEW are the same arguments that we used for creating the Department of Education.

Now, they are inconsistent in proposing a separate office of education without department status.

What does it do? It degrades education.

The gentleman from California in his general argument has tried to indicate that not creating the Department of Education, but taking the education division out of HEW will solve the problem some people have with the Federal direction of education.

Well, now, that is not going to do it any more than the Department of Education not setting up a board of educaiton. We are setting up a Department of Education. I think that this amendment degrades the stature of education as far as the Federal Government is concerned. I urge my colleagues to vote against it.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be happy to yield.

Mr. McCLOSKEY. Mr. Chairman, the gentleman is correct. I took the gentleman's argument that the gentleman made last Thursday in support of this bill. Ninety-eight percent of those arguments are in favor of taking this office out from under HEW and I concede the virtue of that point.

But would the gentleman advise the committee what additional benefits the head of the Office of Education will have by being a Cabinet Secretary, what benefit will there be for the Nation?

Mr. HORTON. In and of itself, the Secretary of Education would be a member of the Cabinet, so he would be at policymaking level as far as the Federal Government is concerned and not at some independent level where he would not have the status.

Mr. McCLOSKEY. But the gentleman has already conceded, however, that that Cabinet-level officer will not advise the President on educational policies, because we are not permitting the Federal Government to set educational policies. What is the value of his advice if there is not policy?

Mr. HORTON. I will recoup my time, if you please.

Education policy as it relates to the Federal handling of education is a matter they can handle jobs in this country. That is one of the problems we have with the underemployment problem that we face. We face it with minorities. We face it with Vietnam veterans. We face it with all groups of people. The number of people that are not educated today is really uncalled for. We should have a better means of providing the facilities and providing the means at the Federal level to educate people and we are not doing it.

I am not satisfied with the educational facilities we have and the ability we have to train and educate our people. Perhaps the gentleman is, but I am not.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield on that point?

Mr. HORTON. I yield to the gentleman from California.

Mr. McCLOSKEY. Based on that concept, with the Department of Veterans Affairs having a larger budget than Education, would the gentleman propose a Cabinet-level Secretary for Veterans Affairs?

Mr. HORTON. We are talking about the Department of Education. We are not talking about something else now. That is what is before us.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield further?

Mr. HORTON. I would be glad to yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, the testimony showed that we still have the best system of education, the most innovative, the most flexible and the most progressive. We are comparing that educational system with those developed countries throughout whose total existence the Federal Establishment has been responsible for education. Ours has been diverse and it has been innovative. It has been imaginative and progressive because it has been run by State and local control.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Mr. Chairman, the point that I would like to make to the gentleman is that we have not delivered in this country. We are not delivering the education that we should be delivering. It is costing a lot of money and much of it is tied up in paperwork and tied up with the bureaucracy. The reason for establishing a Department of Education is to remove some of that bureaucracy, to remove some of that paperwork, to get rid of the log jams and the obstacles to providing the funds, the Federal funds, that are being utilized today for education.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California. I think as I sat here listening to the argument that this amendment really gets to, if not the heart, at least one of the concern is the massive size of the Department of Health, Education, and Welfare. Most of the size of that Department is in the appropriations and the manpower for the Health and Welfare portions of the Department. Actually, the Office of Education is a very small part of HEW, but there is that concern that HEW is too large, too massive, and it is not manageable.

We have heard at least one Secretary of HEW make that observation. It is not a manageable department, and there is that concern.

To the extent that is our concern, this amendment addresses that concern in the same way that the proposal before us for the Department of Education would do so. It strips out from HEW the Office of Education functions.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to my colleague, the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I appreciate what my colleague, the gentleman from Illinois (Mr. ERLENBORN) is saying. He is saying that we should be listening to what the people of this country want, and I think they are saying they want less bureaucracy and less Washington establishment.

I ran a poll in my district and received replies from 12,000 respondents. Eighty-three percent were against the Department and 17 percent for. I dare say that most of the districts in rural America would give that kind of response. They

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the gentleman is arguing now for the McCloskey amendment, which would create a separate Office of Education outside of HEW. It would use the same personnel and the same organization that the Department of Education, which is the subject of H.R. 2444, would use.

Mr. ERLENBORN. Mr. Chairman, will the gentleman get to his question?

Mr. HORTON. Mr. Chairman, the question is this: I am wondering how the gentleman can indicate how we are saving paperwork by this proposal?

Mr. ERLENBORN. Mr. Chairman, the gentleman was not listening to me. I said, the gentleman from New York claims there would be a saving in paperwork, and I am saying this——

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I decline to yield at this point.

I am saying the only savings in paperwork the creation of the Office of Education would achieve would be that paperwork that would be involved in the issuance of rules and regulations, paperwork that is occasioned at the Federal bureau-principal differences that divides those who support the Department of Education and those who do not. We hear the proponents of the Department and opponents of this amendment, we hear them telling us that the way to raise the prestige of education is by passing legislation in Washington and creating new Government structure.

Now, I said last week when we were debating this, what conceit those people have who think that putting a "made in Washington" stamp on something makes it better.

Education to the extent that it has prestige gains that prestige by what is happening in the classroom, by the quality of the education that is delivered to the child, not by what kind of government structure we create here in Washington.

I am afraid that if we stay here too long, we begin to see Washington as the heart, the soul, the brain of this country, as the sole place where you do things that are worthwhile or not worthwhile. We ought to spend a little more time back in our constituencies to find out what they think of what we are doing here, how much more faith they have in what they do at the local level and then I think we would support the amendment offered by the gentleman from California.

☐ 1400

This does address something that has been a concern of many Members. Some have even made tentative commitments to vote for the Department of Education because of that concern, and that concern do not want more bureaucracy in Washington. They want to solve their problems locally.

Mr. Chairman, I say that our education system is strong because there is a strong local involvement.

Mr. ERLENBORN. Mr. Chairman, I thank my colleague, the gentleman from Minnesota (Mr. STANGELAND).

I might say, from talking to my colleagues on both sides of the aisle, that I understand the same sort of questionnaire or poll results are coming back in one congressional district after another.

Mr. Chairman, I heard my good colleague, the gentleman from New York (Mr. HORTON) talking about stripping away the superstructure to do away with paperwork and cut down on the amount of time that is spent. We do not save any paperwork for our State education agencies, or local education agencies, or our school boards, we do not save any time for our classroom teachers by creating a Department of Education. Let me tell the Members whose time we are saving. We are saving the time of the Washington bureaucrats.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will yield in a moment.

Yes, it is very clear that they can pump out rules and regulations faster if they are autonomous and they do not have to go through the structure of HEW. So to the extent the proposal for a Department of Education saves time and saves paperwork, it is here in Washington that we see those savings.

cratic level.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from New York.

Mr. HORTON. How is the gentleman going to say that by creating a separate Office of Education we are going to save paperwork?

Mr. ERLENBORN. Mr. Chairman, if the gentleman will let me get to that point and allow me to recapture my time, I will answer the question.

The creation of an Office of Education would save all of the same Federal bureaucratic paperwork the creation of a Department of Education would save, so they would both effect the same amount of that kind of savings.

But let us look at where the savings in paperwork ought to be accomplished. That is in all the forms that go out to the States for applications for narrow categorical grants under the current law, all of the forms that are generated by that Washington bureaucracy through the rules and regulations.

How would this Office of Education save paperwork? If we did not have to have the massive size and complexity to justify the existence of a Cabinet-level department, we could begin to move with an Office of Education in the direction in which we ought to move, and that is toward block grants for education and toward education revenue-sharing. Ultimately we could conceive of a small Office of Education sending out checks under a formula to our local school districts and saying, "Here, use these dollars to help in the educational process.

You make the decision at the local level. You know what your problems are and how to resolve those problems. But don't discriminate."

There will be some limits as to what they can do with this money, but very few. We can move in that direction with an Office of Education, but we could never move in that direction with a Department of Education. We would have a massive Cabinet-level Department of Education that required that size, required that personnel, required that complexity, and, yes, required that policymaking function to justify its existence.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, this debate really comes down to the point of whether this office will be headed by a commissioner or by a Cabinet Secretary, and I would like to ask my colleague, the gentleman from New York (Mr. HORTON) this question: Is it not true that a commissioner does not rate a Government limousine, and a Secretary does?

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, that is one difference, but if the gentleman will allow me to say so, that is about the only difference involved, because what the gentleman from California (Mr. McCLOSKEY) is attempting to do is to set

I think we are making a decision now as to the future course of the Federal Government's involvement in education. Will it be limited, or are we going to move toward a massive intrusion by Federal level into what had been done at the State and local level?

Mr. Chairman, I yield back the balance of my time.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

(Mr. ROSENTHAL asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Chairman, it is with some degree of reluctance that I oppose this amendment because it is authored by my very distinguished and respected colleague, the gentleman from California (Mr. McCLOSKEY) who is opposed to this bill, as I am.

In evaluating my opposition to the amendment, I want to be very fair and honest insofar as the principles of my opposition to this new Cabinet-level Department are concerned.

The only advantage to the amendment, as compared to the proposal in the bill, is that it does not create a Cabinet-level office. I am opposed as a matter of principle to the creation of a new Cabinet-level office, unless there is a national policy that must be conducted only by a Cabinet-level officer. I do not support the creation of separate, independent units such as the Veterans' Administration or the Office of Education, which has by submitting a reorganization plan. So while I appreciate the thrust of the gentleman's amendment, I oppose it because it creates this new agency, takes the education component out of HEW, and I think does disservice to the pyramid form of Government.

Mr. Chairman, I would urge defeat of the amendment.

Mr. BROOKS. Mr. Chairman. I move to strike the requisite number of words.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Chairman, a principal reason for establishing a Department of Education is to provide, for the first time, a Cabinet-level advocate for education who has direct access to the President and who is accountable to the Congress and the public.

Administration spokesmen who appeared before the committee said that President Carter has expressed concern on several occasions that education issues are rarely brought to his attention at Cabinet meetings. He has said that education issues take less than 1 percent of his time.

The Department of Education that will be established by this bill will have a budget of $14.5 billion. It will have more than 24,000 employees. It will be larger than the Departments of State, Interior, Justice, Commerce, and Energy. The head of that Department will be a person of stature and influence in the administration and in discussions in the Cabinet. That is what we want for education, and up an Office of Education, using the same personnel, the same structure, and the same organization as the Department of Education, but he would call it an Office of Education.

My point is that if the gentleman is for one, he ought to be for the other. And it is inconceivable to me that the gentleman in the well, the gentleman from Illinois (Mr. ERLENBORN), would be for this Office of Education when it is going to be doing the same thing as the Department of Education.

Mr. ERLENBORN. Mr. Chairman, it may be inconceivable to the gentleman, but let me say there is one basic difference.

If the gentleman were listening, he would have heard me say that just a moment ago. We do not get Federal policymaking, we do not get massive size and complexity to maintain the Office of Education, but we do get those things to maintain a Department of Education.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I think the gentleman from New York (Mr. HORTON) has made the case. The ranking minority member has just said the only difference between these two offices is that the Cabinet Secretary gets a limousine and a commissioner does not. I think this Congress ought to cast a vote opposing limousines and make this an office instead of a Cabinet position.

Mr. ERLENBORN. Mr. Chairman, I do agree with the gentleman in saying the amendment should be supported.

again only a narrow parochial interest group as its clientele. That is very, very bad government.

I oppose the amendment because it creates this agency and because what it does is destroy an important balance within HEW that I think is very important and that was enunciated when HEW was created in the first place, and that is that the forces within HEW should balance themselves off.

If we took the education component out of HEW, we would in effect be creating three new agencies, because the health people, the health clientele, would surely in a short period of time be urging and demanding and seeking and perhaps achieving their own department, and the remnant department would be the social welfare component of the agency. It is enormously important for the triparte thrust of that agency to keep them together.

What I would have supported, had someone offered the amendment, is the creation of an Under Secretary for HEW to be responsible for the education component.

☐ 1410

It may well be that no one is offering such an amendment because it really is not necessary. The President himself can do that by reorganization proposal. All of the deficiencies that the Administration suggests are inherent in the education component; that it takes 8,000 days to process an application, or 154 days to do this, or 23 days to do this, all of those things can be corrected by Executive Order. The management efficiency can be corrected any time the President wants that is why we are proposing the establishment of this Department.

An upgraded Office of Education, no matter how efficiently it is run, will not command this attention. It will not provide the broad-based leadership that is needed to help our schools and our children meet the challenges and problems ahead.

The amendments should be rejected.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. MCCLOSKEY).

The question was taken; and on a division (demanded by Mr. HORTON) there were—ayes 30, noes 37.

RECORDED VOTE

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 114, noes 257, not voting 63, as follows:

[Roll No. 202]

AYES—114

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Bennett
Bereuter
Broomfield
Brown, Ohio
Broyhill
Campbell
Carney
Chappell
Cheney
Cleveland
Clinger
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Gibbons
Glickman
Goodling
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Hyde
Jacobs
Jeffries
Johnson, Colo.
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, La.

Lederer
Lee
Lent
Livingston
Loeffler
Long, Md.
Lungren
McClory
McCloskey
McDonald
McEwen
Martin
Mavroules
Miller, Ohio
Moore
Moorhead, Calif.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.

Nelson
Obey
Panetta
Paul
Quayle
Railsback
Regula
Ritter
Roth
Rousselot
Sabo
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe

Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Vander Jagt
Walgren
Walker
White
Whitten
Williams, Mont.
Wylie

Weiss
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Tex.

Winn
Wirth
Wolff
Wolpe
Wyatt
Yates

Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—287

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bethune
Bevill

Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Guarini
Gudger

Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper

NOT VOTING—63

Addabbo
Ambro
Anderson, Ill.
Badham
Bolling
Bonior
Bouquard
Breaux
Burton, John
Clausen
Collins, Ill.
Conyers
Corman
D'Amours
Danielson
de la Garza
Derrick
Diggs
Dornan
Eckhardt
Evans, Ga.
Fary

Flood
Foley
Forsythe
Frenzel
Fuqua
Goldwater
Hammer-schmidt
Ireland
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kindness
Leach, Iowa
Lloyd
Lott
Lujan
McKay
Marks
Mineta

Montgomery
Moorhead, Pa.
Price
Rhodes
Rodino
Rostenkowski
Rudd
Runnels
Russo
Schulze
Seiberling
Spellman
Steed
Treen
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Johnson of California against.

Mr. Badham for, with Mr. Addabbo against.

Mr. Goldwater for, with Mr. Anderson of Illinois against.

Mr. Kindness for, with Mr. Dornan against.

Mr. Rudd for, with Mr. Clausen against.

Mr. Schulze for, with Mr. Lott against.

Mr. Wydler for, with Mr. Fuqua against.

Mr. Montgomery for, with Mr. Jenrette against.

be that a separate office will be the most effective means of meeting that objective. However, I do not feel that a formal office for educational television and radio support should be mandated in H.R. 2444. I say this for one reason: the field of audiovisoal and information technology as it relates to education is such a revolutionary area that its administration by the Department of Education should not be locked in by a statutory requirement. The Secretary should have the flexibility to adapt the administrative structure to foster the efficient development, production, promotion, and distribution of all audiovisual and information programs, including, but not limited to, educational television and radio.

Mr. DELLUMS. I thank the Chairman, and I hope that this discussion makes clear to the Secretary of the new Department of Education the importance Congress places on an effective support mechanism for these programs.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know if anyone in this House is going to be influenced by what anyone says, or is interested in what anyone has to say. But I would like to speak to the issue as to whether or not we should have a separate Department.

I was very much in favor of the Department of Education when I came down here; and still, after I had been

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Burgener
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Coleman
Conte
Corcoran
Cotter
Coughlin
Courter
Daniel, Dan
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
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Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
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Edwards, Ala.
Edwards, Calif.
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Evans, Ind.
Fascell
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Hall, Ohio
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Hubbard
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Hughes
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Jenkins
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland
Levitas
Lewis
Long, La.
Lowry
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Lundine
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
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Santini
Scheuer
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver

Mr. Runnels for, with Mr. Mineta against.

Mr. LONG of Maryland changed his vote from "no" to "aye."

Mr. BUTLER changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

☐ 1430

Mr. BROOKS. Mr. Chairman, I move to strike the last word.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the distinguished Chairman for yielding to me.

Mr. Chairman, at this point I would like to clarify an issue dealing with the role of educational television and radio in the new department. Does the Chairman agree that a major priority of the Secretary in fashioning the administrative structure of the new department should be to coordinate educational television and radio?

Mr. BROOKS. Mr. Chairman, I want to say to my distinguished friend, as I understand it, the Secretary of HEW, The Commissioner of Education, and the Assistant Secretary for Education now are assigned certain responsibilities relating to the development, production, promotion, and distribution of television and radio programs under sections 207, 303, and 611 of the Elementary and Secondary Education Act of 1965. I feel that it is very important that the Secretary of Education provide for a means of coordinating such functions within the new department. It may well

here for 2 years, I thought it was a wonderful idea. I spoke and wrote in favor of it and mentioned it in my campaign in 1976. I did not stress it in 1978, because I was beginning to be doubtful, and I am more doubtful with every passing day. I am more frightened of the effect of a uniform Federal policy. A letter from the White House endorses the Department as improving "the management and efficiency of Federal education programs." What could be more terrible, what could be more frightening, than to have Federal TV and radio blasting out into every school with all the money of the Federal Government back of it—uniform, clear, irresistible because it will not cost a dime, because it is all paid for down here in Washington, with no check on it locally.

To suggest to the Members where we are going with Federal control, here is a little story: There is a small college in western Pennsylvania that never took a dime from the Federal Government, never, because they wanted to be free and independent. It is a Presbyterian college, and they do not believe in taking State money. Now what is going to happen? They have a fine program which everybody admits is fine, with no sex discrimination in their athletics or anywhere else. They were ordered to sign forms showing compliance with title IX. They refused to do it. They were addressed as "Recipient" and since they were not a recipient, they did not feel it applied to them. This is what happened in the colloquies that went back and forth: "We are going to get you to comply one way or another." Now what is HEW doing? They are threatening to remove the students' grants and loans. If you cannot control a college directly, if you cannot get them to sign the forms, if you cannot get them to comply, if you cannot get them to do what Washington says, you take away the students, or make them pay, make the students who cannot afford to go to college except with aid pay, take that aid away from them. This is what I fear from Washington; this is what we are already getting. What would we get if we have a great big department? I do not see how we can tamper with the diversity and the whole intricacy of our local education system as it now stands.

How can we have education so bureaucratized? In France, I am told, right now if it were 10 o'clock in the morning in the third grade they would be on the same page of the same book in every single one of the nation's schools. This is what centralized education does. We say, Look, it does not have to be that way and it would not if we could give out just blanket educational grants and let the States decide where it is going to go. But the minute we have categorical grants, we have to find out what they are doing. We cannot take money out of the pockets of the people without making sure the funds are properly spent when we take money for a specific purpose. This is the trouble. We are going to have control whenever we have Federal programs.

There comes a time when we have to pause, and maybe this is just it. Of all the things we should not fool around with, it is education. Of all the things to school, some stayed till 7th or 8th grade—we now educate all of the youngsters. Let me tell you, of course, the average then will be different when you take an average of results.

Second, we hear people say, "But the employer says I do not get good students." The competition is great for good students, and if an employer employs a student simply because he went to high school, or simply because he had a high school diploma, he should get burned because, you see, we are called upon to educate all youngsters.

☐ 1440

Mr. Chairman, if you insist that each youngster—and this is what a Department of Education could bring—each youngster is going to have to pass some national examination in order to be promoted in grade, you are going to destroy public education. You cannot put a quart in a pint. Therefore, you wonder why bathrooms are destroyed, fires are set, all sorts of vandalism takes place. If you sat in the Greek class and you did not understand Greek you would be frustrated also. So are youngsters where we try to force them to pass some kind of competency examination when they do not have those kinds of capabilities.

Now going back to the programs that have been successful from the Federal level, Mr. Chairman, elementary, secondary education title I specifically has been a successful program. It has been successful because on the Federal level we have provided funds. But we did not tell them what to do back in the State not hear sounds. That was brought about by Federal encouragement, Federal involvement.

The second thing that concerns me about those who say, "Well, perhaps we should vote for this program," is that the teachers want it. Now, I do not know if you have been back to the grassroots but let me tell you, the teachers who are in the trenches day in and day out do not want a Department of Education. Yes, there are people back there who are mouthing what their parent organization in Washington is saying. That is part of their job.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. GOODLING was allowed to proceed for 5 additional minutes.)

Mr. GOODLING. There are those people from back in your district who are encouraging this program. They are mouthing what is being told them in Washington, D.C. However, if you get back to the trenches, Mr. Chairman, they are saying, "Please, help us with your dollars; we know our local government is strapped, but do not send us any more paperwork, do not send us any more mandates, do not send us any more Federal programs. Give us an opportunity to teach reading, writing and arithmetic."

Third, if you really want to help, if the Federal Government really wants to help education back home, the best way to do it is to take these dollars that you are talking about pouring into a Departthat need diversity, innovation, experiment, independence—independence above all of the Federal Government itself it is education.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

(Mr. GOODLING asked and was given permission to revise and extend his remarks.)

Mr. GOODLING. Mr. Chairman, there are two things that concern me as I listened to the discussion the last couple of days. First of all, I have a feeling that we in the House still have the idea that if we have a problem in this country, all we have to do is have some Federal legislation and that will take care of it. Our people back home used to think that that is the way things work, but they became disillusioned. They realize we cannot fix it so now they are saying just the opposite. But apparently we have not gotten that message yet in the House of Representatives.

Let me give you a couple of illustrations about Federal aid to education. Let me show you where it does work and where it does not work. Before I do that, let me preface my remarks by saying that in 21 years of public education, I found each class to be equal to or better than the class before in spite—in spite of what we have gone through during the sixties, in spite of the deterioration of the home situation, in spite of the fact that we are now mandated to educate all youngsters, not the way it used to be when some people went to school and some never went or back in the local government. We said:

> Here is money. We want you to do something for these youngsters but we are not telling you how to do it.

It got off to a slow start, Mr. Chairman, but it is working well at the present time.

Vocational education is another example of where Federal dollars helped. Again, however, we did not tell them how to do it. We said, "We provide you the money, we want you to do certain things, you come up with the idea, State and local government, and we will have a better program." We did.

Let me give you two quick examples of where Federal Government interference almost destroyed public education.

No. 1. Modern mathematics. Modern mathematics came upon the scene of public education simply through Federal dollars, Federal encouragement, Federal grants. No one was prepared to handle that. The teacher was not prepared to handle it. Parents could not help the students, because they did not know what they were talking about and we had a destructive situation in the whole business of mathematics.

Let me give you another example. If there are any nonspellers in the Congress of the United States, in many instances you can thank the Federal Government for that. It was Federal grants, Federal direction, Federal encouragement that brought about the teaching of reading without phonics. All of a sudden we got a whole crop of youngsters who could not spell. They could not hear. They could ment of Education and send it back to those local districts and let them reduce their pupil-teacher ratio in kindergarten and first and second grades. Do that and you will help youngsters. The die is already cast by the time they get to third grade If you have not done the job in kindergarten, first and second grades, you probably are not going to be able to do it. So give them an opportunity to do it on the levels. Send those dollars back which would go into a Department of Education, reduce pupil-teacher ratio and give those youngsters and those teachers who are teaching them a fighting chance which they do not have now. They do not need more bureaucracy.

Federal education will bring about several things. As I mentioned, one thing it will bring about in all probability will be some kind of competency examination to determine whether a youngster may or may not be promoted. That would destroy education for the masses. It would have to do that.

Second, it could mean a national curriculum. I certainly do not believe that this country in any way can tolerate a national curriculum generated by people down here.

Some of your people who are promoting a Department of Fducation think it will be staffed by people, administrators, and teachers who have been in the trenches and on the front lines for 10 or 15 years. You and I know when you staff a Federal bureaucracy you staff it with with dreamers. You staff it with people who have to justify their position and their salary and certainly the people back home in the trenches are not asking for that kind of staffing.

I would hope you would very seriously consider what we are doing and also consider how well we have done in spite of all the decines in the whole idea of a strong family, in the whole idea of parents and relatives being totally involved in this business of education and the whole idea of education for the masses. Let us continue to give our public system an opportunity to do well. All we have to do is simply let more money back in the local district or send more money back for them to spend on education.

Mr. LEVITAS. Mr. Chairman, I move to stroke the last word.

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

Mr. LEVITAS. Mr. Chairman, I rise at this point specifically for the purpose of responding to the comments made by the distinguished gentleman from Pennsylvania and the distinguished gentlewoman from New Jersey. I think their remarks are of sufficient significance and import that they should not be ignored. I say this because I agree with much of what they said.

There is too much Federal interference in education, especially excessive regulation. There is too much grabbing by Federal authorities and interfering with decisions made both at public and private educational institutions. Many if not most of the programs that have been put in place in the last 10 or 15 years in

□ 1450

Mr. LEVITAS. Mr. Chairman, let me say to my colleague, the gentleman from California, who is not only eloquent, but with whom I agree on many issues, that I think one of the differences between this bill before the House today and that which has been before the House on other occassions deals specifically with the two points that the gentleman from California has mentioned. This is the first piece of legislation, to my knowledge, that has even come before the Congress creating a new agency or a new department in the Government which has in it a statutory limit on the number of personnel in that department and, indeed, requires a reduction in the number. The only significant way for that number to be increased in the future will be for the Members of this Congress to act irresponsibly. We can act and have acted irresponsibly in the past, but now we have a statutory mechanism for assuring that we may not in the future or at least we will be held accountable for such action.

Second, it is the first agency or department in Government ever to be proposed that from the outset has built into it a legislative veto over its rules and regulations from the outset.

What we are doing in this proposal is different. I think we cannot simply say that, because there have been mistakes in the past, we cannot do a better job in the future. What we are trying to do is a better job.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield.

Mr. ROUSSELOT. Mr. Chairman, my understanding is that the Senate legislation does not have the one House veto provision. The gentleman from Georgia and I have supported that concept time and time again. A lot of times conferees keep taking this provision out in the Senate and other pieces of legislation where we have tried to place it.

What guarantees do we have that in conference this will not be taken out?

Mr. LEVITAS. Well, first of all, let me say that I cannot tell the gentleman that I have any guarantees. I have had a different and more favorable response from the administration on this particular legislation than we have on previous ones; but I will be happy to ask my distinguished chairman, the chairman of the full committee, if it is the gentleman's intention to fight for the House position on the——

Mr. ROUSSELOT. On the veto provision?

Mr. LEVITAS [continuing]. On the veto provisions, which I am sure the gentleman will do.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the distinguished gentleman from Texas.

Mr. BROOKS. It is my opinion and my

the name of education have not been successes and, indeed, in some instances have been disasters.

All those things are true. I will join with the gentlewoman from New Jersey (Mrs. Fenwick) and the gentleman from Pennsylvania (Mr. Goodling) to take those legislative actions necessary to deal with those problems. The fallacy, however, in their arguments is that they have nothing to do with this legislation at all. This legislation does not create a single new Federal program. It does not create any new Federal power. Not only does it not create new bureaucracy, it actually reduces the present bureaucracy. It adds not one single dollar, not one single regulation to what exists today and, indeed, it gives us mechanisms for cutting back on the regulations that exist at the present time.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to my colleague.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I think if the experience of the past in the creation of Cabinet-level departments had been what you say this new Education Department is supposed to be, many others would be willing to join you. However, exactly the opposite has happened. If we are to use historical perspective.

I see no guarantees in this legislation that show us that it will not grow, that it will not be the normal grasping bureaucracy looking for more and more authority, more and more rules and regulations, and be very much detrimental to education in this country.

One of the reasons Government has mucked up and messed up education so much in this country is that it has been buried in the bowels of HEW and scattered throughout the bureaucracy.

Now we are going to put the spotlight on them. Now we will have an opportunity to assess their activities, which we have not been able to do in the past.

If you think that HEW has done a good job of running the education programs, as the gentleman from Pennsylvania has indicated they have not done, if you think HEW has done a good job, leave it in HEW. Let Joe Califano continue to run it; but if you want to make it accountable, if you want to reduce the bureaucracy and let aid to education be effectively administered and let the local people continue to control these programs, as section 103 of this bill requires, it requires local control, then I suggest you should support this legislation.

Let us not visit all the sins of the HEW administration upon this new effort, which I suggest will improve, rather than diminish the program of education.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I will be happy to yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for yielding further and I appreciate the gentleman's comments.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has expired.

(At the request of Mr. Rousselot, and feeling that we will stay with the language of the committee bill straight through. I do not plan on changing.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman oppose it if it came back from conference without that veto provision?

Mr. BROOKS. No; I am not that arbitrary.

Mr. LEVITAS. I will.

Mr. ROUSSELOT. Well, the fact that the gentleman from Georgia will oppose the conference report if the one-House veto is taken out in conference is a positive note.

Mr. LEVITAS. I will not only do that, if I am given the opportunity I will offer a motion to recommit with instructions and I suggest it will have the same fate that the FTC met in the last Congress.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's comments, because I think that is an important commitment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman makes a very important point, I think, about the fact that this bill does contain a provision to cut back the number of personnel in this Department. I think the number is 450.

The gentleman is aware, however, that really will not even change the ratio of the number of employees in the Department to the number of school districts around the country. It is one and a half to one, as we are creating it, and that that cutback will not even change that ratio.

Also within the Department, I think the gentleman will agree, that we did make a provision to allow it to expand at 50 people a year, which means that within a decade we would get back that whole 450 plus.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has again expired.

(At the request of Mr. Walker, and by unanimous consent, Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I am happy to yield to the gentleman.

Mr. WALKER. Mr. Chairman, is it not the case, that without statute we will be able to expand the Department by 50 employees a year?

Mr. LEVITAS. Yes. It would be expandable by only 50 employees a year, which if we look at the record of other agencies in Government, that is unusually small; but I think even more important is the fact that we have cut back and it will take 10 years for it to get back to present level, and incidentally, as I said the other day during debate, I would like to see it cut back even further and will support, with the gentleman from Pennsylvania, efforts to do so; but I think the important thing is it is the first man about unlimited growth coming as a result of the creation of this department as it has in the creation of previous departments.

I support fully the cap on employment levels as contained in the bill; however, I do not think this satisfactorily really addresses the problem.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has again expired.

(At the request of Mr. Kramer, and by unanimous consent, Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I would be happy to yield.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

The reason I say that is the following: Let me give some examples of what has happened in other departments.

In the Department of Energy, for example, in 1977 to 1978, although employment within the Department increased only 3 percent budget authority for the Department increased 62 percent.

In the Department of HEW between 1968 and 1978, whereas employment increased 47 percent, budget authority increased 363 percent.

For the Department of Transportation for the years 1968 through 1978, whereas employment increased 25 percent, budget authority increased 108 percent; so that does not necessarily mean, I draw the conclusion, that there is a not we are going to create a national curriculum, because we cannot under section 103 of this bill. It will not be an expanding bureaucracy in terms of personnel, because we have limited and capped it, unless this Congress does otherwise.

I think it becomes extremely important for this Congress at the outset to place these limitations on this new department and in the future exercise the responsibility and exercise the courage not to continually increase either personnel or programs beyond that which this Congress believes is appropriate.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman.

Mr. KRAMER. Mr. Chairman, in light of what the gentleman is saying and in light of my amendment can the gentleman comment as to whether or not he would be supportive of that amendment?

Mr. LEVITAS. If the gentleman is talking about administrative costs, I would certainly support that amendment.

If the gentleman is talking about programs, I cannot address myself to that, because I do not know what programs we are talking about. It may be, for example, that we would eliminate the impact aid program and increase block grants, which I believe the gentleman may prefer.

☐ 1500

Mrs. CHISHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to speak

time that an agency of Government will have been established or continue to exist which would require statutory enactment to raise its personnel level.

Now, that is a rather unprecedented action by this Congress; so I think it has more than just symbolic significance.

Mr. WALKER. Mr. Chairman, if the gentleman would yield further, I thank the gentleman for that observation, because I think it is an important one; but what I am trying to get across is that there is some movement adrift among proponents of this Department that would make you think this is a no-growth Department. In fact, even with the provisions that are in there, it is a growth Department. It does have the ability to expand in the future and I think that those of us who opposed the Department are opposed to it, because we fear that kind of expansion.

Mr. LEVITAS. Well, I will join with my colleague, the gentleman from Pennsylvania, and see if we in future years can reduce, rather than increase, the size of this Department.

I think as it becomes a more efficient mechanism, rather than the mess that we now have in HEW, perhaps we can accomplish that purpose. I would hope to join the gentleman in any efforts to do that.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I appreciate the gentleman's comments. I share the same concern with the gentle-

necessary correlation between capping authority of employment, putting a cap on employment, and thereby assuring a cap on budget authority.

I am going to be offering an amendment in a few minutes which will attempt to do just that. It will, in effect, limit increases in budget authority in the new Department to cost-of-living increases, as measured by the Consumer Price Index.

I would hope, based on the statistics that I have given and the gentleman's own experiences, that the gentleman would be supportive of that type of amendment.

Mr. LEVITAS. Mr. Chairman, let me say this to the gentleman. The figures the gentleman has referred to about the Department of Energy, for example, are to me very disheartening. The reason those things occurred is because this Congress did not take the steps to stop that.

I do not think, however, as I said before, that that is relevant to the question of whether we should or should not establish a Department of Education. There are legitimate arguments upon which reasonable people can disagree against the Department of Education. There are legitimate arguments.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, those arguments do not deal with whether or

briefly as to why this department, this separate Department of Education, should be rejected at this particular juncture.

I think we have to recognize that if we are going to speak about a separate Department of Education, that said department would include the majority of educational components in the different agencies in this country. As we take a look at this separate Department of Education which is now moving through the House, we see quite clearly that this is not really a separate Department of Education but a potpourri of a few things that have been put together in order to give the semblance of a Department of Education.

I think we have to recognize that when we are dealing with education and children, the child cannot be thought of in a vacuum, and we have to take into consideration a combination of factors that go into the making of a child in the education arena—for example, health, welfare, and education, HEW. To think that we are going to be able to develop educational programs and have a particular department addressing itself only to education and not take into consideration the other components that would have a direct bearing in terms of any national policy that we might want to move toward is, I think, the wrong approach.

It is important to recognize that we are moving more and more in terms of the federalization of education. It took a number of years to get the lay citizens of this country and to get the parents to become involved in the education of their children. We have known for far too long that the professional organizations in this country, generally speaking, have not looked took kindly upon the participation of parents and the people out there in the community in terms of the whole educational structure.

I can see quite clearly down the line that in the event we put together this separate Department of Education, it is going to move in the direction of a real professionalization of education at the expense of the child, the parents, and the lay citizens of this country, and, even further, at the expense of the local school boards and the local school agencies whose responsibility it is to make the final determination pertaining to the education of children and to their families.

I think we must be very objective today. I know that promises have been made. I know that persons have commitments to keep, and I know that persons have appointments to keep, but we must remember that this is a very, very crucial and a very important issue. It is an issue that has to do with our role as national representatives bequeathing a legacy to the children of this country.

So I beg of the Members today to please reject this separate Department of Education, because in reality it is not a separate Department of Education. Looking ahead to the tremendous numbers of amendments that are going to be offered on this floor today, it is quite clear that everybody is going to be trying to pull out their particular fiefdom. I do not think a great deal of thought and

provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—FINDINGS AND PURPOSES

FINDINGS

Sec. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) the primary responsibility for education resides with States, localities, and private institutions;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presi-

(7) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Sec. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 56, in line 17, strike out the "and";

In line 19, strike out the period and insert in lieu thereof "; and" ; and

After line 19, insert the following:

(8) to promote in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis.

(Mr. WALKER asked and was given permission to revise and extend his remarks.)

Mr. WALKER. Mr. Chairman, this amendment, as read by the Clerk, is designed to put this department in the business of promoting school prayer.

Today, if we take a look at the schools

analysis and clarification for the future of education in this country has been afforded. I do not think a complete analysis has been made.

So I would hope that we will continue to leave education where it belongs and continue to delegate it to the States in this Nation. I hope that we will continue to recognize that we can clean up some of the acts of HEW and not remove the component sources from HEW in terms of dealing with the child's life and thus his health, welfare, and education.

On this basis I am going to ask the Members of this House to reject this department. I mean this very deeply. I speak to the Members now not as a politician, but as an educator by profession. I ask the Members to reject this separate Department of Education today, because it is not really a Department of Education, and I ask them to take into consideration all of the parts of the whole child.

The CHAIRMAN. If there are no further amendments to section 1, the Clerk will designate section 2.

Section 2 reads as follows:

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise

dential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the acountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs; and

across this country, we find they have purposely designed themselves to serve the needs of "the whole child." Our schools today are involved in the home life of their children, in their sexuality, in their eating habits, in their vocational training, in their entertainment and recreation, in their ability to drive a car, and in their physical health and well-being. All aspects of the child's life are addressed, in addition to teaching basic skills such as reading, writing, and arithmetic.

There is one, though, that we have overlooked. We do everything to serve that child except look at his or her moral and spiritual well-being. That seems to be the only thing in the child's life that we are specifically ignoring as a nation.

I do not think that we can teach morality, and I do not think we can in the public school teach spirituality. We should not embark upon any course which would do that. But we can establish the condition's under which individual expressions and thoughts can be encouraged.

I would remind the Members that we believe that right here in this Chamber. Every day we begin our sessions with a prayer. We believe such prayer contributes something to the sessions and to the deliberations of this House. I think that it would be agreed that in many aspects of our lives prayer is important. Those of us who go to political meetings across this country often see them opened with prayer because we believe that it contributes something. I think we ought to have the same kind of thing happening in our schools on a daily basis.

We start our day here in the House of Representatives with a prayer because we do not hold to the idea that there is something divisive about prayer. We believe that we can have a nation of pluralistic outlook, and that that is really the true nature of this society. We believe that God in His wisdom is certainly not surprised by our differences of opinion and differences in theology. The divisiveness lies in us, not in Him.

It is much less dangerous to encourage prayer and meditation and recognize the strength in our pluralistic society and accept our diversity than it is to impose upon society the only option of secularism. That is what we do in our schools today, and we ought to get back to the business of prayer.

We are not a wholly secular society. Our schools should not pretend that we are a wholly secular society. We are a people who pray, and prayer should be a part of school life so that it can be a more important part of each child's life.

No one is suggesting that we establish only one way of praying, just that a time for prayer be included as a part of a school day.

Do we really believe what we say in the "Pledge of Allegiance" when we say this is "one nation under God, indivisible"? Well, if we do mean that, it seems to me our schools should become a forum for expressing that thought each day.

We have spent too much time during the last couple of decades denying a basic right to our children: The right to a free exercise of religion within that phase of their life which consumes a

(On request of Mr. VOLKMER and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. If required prayer is unconstitutional, as the Supreme Court has said, and if that is so, that is the law of the land at the present time.

Mr. WALKER. I would disagree with the gentleman on that.

Mr. VOLKMER. The gentleman does not believe that it is?

Mr. WALKER. No. There are already school districts in the State of Massachusetts which are operating under a provision where they do allow prayer and meditation in each school.

Mr. VOLKMER. I did not say "allow;" I said "required."

Mr. WALKER. They have the requirement of prayer and meditation in Massachusetts' schools, which has been ruled constitutional. That is a way of attaining the goal which I am addressing.

Mr. VOLKMER. It can be done on a local level?

Mr. WALKER. It can be done on a local level, that is right.

Mr. VOLKMER. It does not have to be dictated by Washington?

Mr. WALKER. This amendment says nothing about dictating it. All it says is that it shall be the policy of the Department to promote school prayer. I think that because the Federal Government has promoted antiprayer for so long, it would be a very good thing for this Department to begin to look at it from the other direction.

Mr. HORTON. Mr. Chairman, I want to concur in the remarks that have been made by my chairman. This amendment goes to the substantive problem of prayer in schools. We should not be grappling with substantive issues in a reorganization bill.

The Committee on Government Operations is not the committee of original jurisdiction. There is another committee of this Congress that is responsible and has jurisdiction over this particular area. It is a very controversial area. I think that it would be more appropriate to have this matter taken up in that committee, have the whole matter aired in hearings there, and not handle it by way of amendment here.

The other concern I have is that, under this particular section where the Congress declares that the establishment of the Department of Education is in the public interest and will promote the general welfare, et cetera, this amendment would add: "* * * to promote in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis."

That would seem to me to create some very serious constitutional problems. The Department would be responsible for promoting these opportunities for prayer.

I am not opposed to the concept, but I do not think that this is the proper place. I think it does raise some very serious constitutional questions.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

good part of their life, namely, their experience in school.

Mr. Chairman, I say again that we are a praying people, and we should be promoting the idea that our children should be able to pray in schools.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I believe that in the gentleman's basic philosophy of Government he thinks that certain things or certain decisions should be left up to local governments and State governments in the field of education. I believe that was the gentleman's direct statement?

Mr. WALKER. Yes, I would agree with the gentleman.

Mr. VOLKMER. Yet this amendment here would dictate from the Federal Government a policy to the local people, would it not?

Mr. WALKER. I would say to the gentleman that the problem for the local school districts today is that the Federal Government has already dictated a particular philosophy with regard to prayer. It is the Federal Government that said the local school districts cannot allow prayer in their schools, so this is our opportunity to allow the local school districts to have that option once again. That is specifically the intent of this amendment, to get it back to the local areas where they used to decide to have prayer on a daily basis.

□ 1510

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what we are dealing with in this legislation is purely and simply Government reorganization. We are taking a number of existing programs that are now scattered about the Government and putting them into a more coherent, logical structure. That is all. We are not touching matters of educational policy.

This amendment raises a most profound question of public policy, one that has been the subject of great controversy and extensive litigation for years. There are deep divisions within the religious community itself over the wisdom of such an amendment. If Congress is to take any action in this area it should only be after long and careful study by the appropriate committee and after full and mature deliberation and debate on the House and Senate floors.

An amendment called up in connection with another bill and considered only under the 5-minute rule does not offer any opportunity for such deliberation and debate. We can only act on the basis of emotion in such circumstances and, I submit, that is not the manner in which a responsible deliberative body should act on a subject of such import.

I urge you to reject this amendment. Let us get on and decide whether we want to establish a Department of Education, and leave the question of prayers in the public schools to the proper forum and to a more fitting occasion.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. BROOKS. I yield to the gentleman from New York.

Mr. LAFALCE. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Pennsylvania. I am very much in favor of this amendment, and would like to explain my belief that it will be found to be constitutional.

The establishment and free exercise of religion clauses of the first amendment have been the focus of some of the most controversial, most difficult and most dramatic litigation to come before the courts in recent years.

The Supreme Court has held that the establishment clause was violated by State-sponsored devotional activities in public schools. I believe that the amendment before us, however, respects the admonition that government must refrain from establishing an official religion, and at the same time encourages an activity which serves permissible secular ends.

The Supreme Court has never considered the constitutionality of a State-mandated moment of prayer or silent meditation at the beginning of each school day. I have reason to believe, however, that the Court would find no constitutional objection to such an activity. Justice Brennan, in his oft-quoted language from a concurring opinion in *Abington School District v. Schempp*, 374 U.S. 203 (1963), had this to say about the observance of a moment of silence at the opening of class:

> The second justification (for prayer and Bible reading exercises) assumes that religious exercises at the start of the school day may directly serve solely secular ends—for

> example, by fostering harmony and tolerance among the pupils, enhancing the authority of the teacher, and inspiring better discipline. To the extent that such benefits result not from the content of the readings and recitation, but simply from the holding of such a solemn exercise at the opening assembly or the first class of the day, it would seem that less sensitive materials might equally well serve the same purpose. . . . It has not been shown that reading from the speeches and messages of great Americans, for example, or from the documents of our heritage of liberty, daily recitation of the Pledge of Allegiance *or even the observance of a moment of reverent silence at the opening of class,* may not adequately serve the solely secular purposes of the devotional activities without jeopardizing either the religious liberties of any members of the community or the proper degree of separation between the spheres of religion and government. *Abington School District v. Schempp,* 370 U.S. 203, 280–81 (Brennan, J., concurring) (emphasis added).

Several other Federal and State courts have also come to this conclusion, and have found no constitutional violation in setting aside a moment at the beginning of the school day for silent meditation. In fact, in *Gaines v. Anderson,* 421 F. Supp. 337 (D. Mass. 1976), a three-judge Federal district court held constitutional a statute which provided for a 1-minute period reserved for silent meditation or prayer. The statute read thusly:

> A period of silence not to exceed one minute in duration shall be observed for meditation or prayer, and during any such period silence shall be maintained. St. 1966, ch. 130; Mass. Gen. Laws, ch. 71 Sec. 1A, as amended

religion should be encouraged. Neither the purpose nor the primary effect of this amendment would be to advance or inhibit religion. In fact, I feel that the present restriction against school prayer is an inhibition against a free observance of religion, which would be ameliorated by this amendment. Therefore, I urge you to support this amendment.

Mr. BROOKS. Mr. Chairman, I am still opposed to the amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. JOHNSON of Colorado asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON of Colorado. Mr. Chairman, I had not intended to take part in this debate. However, this is a subject which will evidently provoke a recorded vote, and I do believe that there should be some discussion from the point of view which I intend to bring up. I do not think that this is an issue which should be considered in the light of the devout versus the unbelievers.

I am a member of the board of trustees of one of the larger protestant seminaries in this country, and I am vitally opposed to this particular amendment. The constitutional question is not as serious for me as is the coercive aspect of public prayer. I think you will find that if we have a public education policy which encourages prayer, it will inevitably be coercive on the students. I do not with public prayer and public exhibitions of religious expression. I think we have that tendency, we have that coercive aspect to public prayer, and I do not think we ought to encourage that kind of activity in a public education program. I did not want to let this amendment go without expressing that point of view.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I certainly agree with the gentleman that there should be nothing about this that would divide believers and nonbelievers by whether or not they support this amendment. But I would say to the gentleman that I would hope that he would not include the prayer that we begin each of these sessions with as being coercive in nature, as having all of the problems with it that the gentleman expressed in his statement.

I do not see any difference in each individual having an opportunity to pray in school, to exercise that which we deem as an extremely important part of the official functions of this House.

Mr. JOHNSON of Colorado. I am not saying that we should do away with the prayer that we open this body with. However, I would say that that has little or nothing to do with the prayers that are offered as individuals. It is a public performance, a public ceremony. It has nothing to do with the prayers we offer as individuals, that we hope would be

St. 19[illegible] 521.

The court found the prescription of a moment of silence to be a valid exercise of the legislature's power in that it served such permissible secular ends as stilling the tumult of the playground and inculcating self-discipline and respect for authority. The court found meditation to be "not necessarily a religious exercise," and held that the addition of the phrase "or prayer" to the statute did no more than reflect a "legislative sensitivity to the first amendment's mandate to take a neutral position that neither encourages nor discourages prayer." 421 F. Supp. 337, 343 (1976).

In addition, the Supreme Court of New Hampshire has twice advised that State's legislature that statutes permitting a period for silent meditation at the beginning of each school day would be constitutional. "Opinion of the Justices," 228 A. 2d 161 (S. Ct. N.H. 1967) and "Opinion of the Justices," 307 A. 2d 558 (S. Ct. N.H. 1973).

The amendment before us concerns an activity that differs significantly from cases in which it has been held that the first amendment was violated. I believe that by providing for silent meditation or prayer on a voluntary basis, we avoid the aura of Government sponsorship which the U.S. Supreme Court has found to violate the first amendment.

The establishment clause is only violated by the enactment of laws which establish an official religion, regardless of whether those laws operate directly to coerce nonobserving individuals. The bottom line, however, is that while Government establishment of religion must be resisted, the free establishment of

see that there is any way that this can be avoided. I have noted that the people who argue in favor of this amendment—and I am not accusing any of those who vote for this amendment of being that way—but I have noted back home in my own district that the people who promote this amendment and the people who promote this kind of public policy tend to feel that those who do not support it are somehow not quite as strong in their faith, do not have the strong beliefs, are not as devout as those who do support it. I think that we should lay that particular idea to rest.

When I first came back to the Congress, I participated in some of the prayer groups that were around here, and I am not trying to cast any aspersions on those who do. This is a very delicate area. I think we all have to acknowledge this. But I am reminded about what Jesus said about prayer. He said, "If you pray in public, you have your reward, because people have seen you pray in public." He said, "If you really want to pray, you will get in the closet and pray by yourself."

Mr. ASHBROOK. Did he really say that?

Mr. JOHNSON of Colorado. Yes, He really did say that. If we take a look at the Bible we will see many things in there.

One of our very prominent ministers in the last century said this about public prayer:

> Whenever the President wishes to do a particularly wicked deed, he bends his public knees, bows his public head, prays to his public God in whose name all evil commences.

I think that is a characteristic we find offered to establish a relationship with our Lord.

☐ 1520

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Would the gentleman say this is a valuable part of the traditions and the practices of this House?

Mr. JOHNSON of Colorado. Yes; it is a part of our public tradition, a part of public ceremony. It is a part of a religious expression of belief. I do not think it is saying that we set time aside and say, "You fellows go out here and pray now. We are going to set aside this time for you and let you have this opportunity to pray." You can go pray by yourself, as you should.

I do not think that you are doing the same thing when you set aside a particular time for these children to pray.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 2 additional minutes.)

Mr. WALKER. If the gentleman will yield further, I would like to make a point. I think the reason why it was included as part of our tradition, because we feel as a body it has some ultimate good connected with it.

What I am saying is I think that that same kind of ultimate good can be practiced on a public basis with regard to the public schools.

I thank the gentleman.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I would be glad to yield to the gentleman from Illinois.

Mr. HYDE. I think the gentleman makes an excellent point. This is not a simple matter at all. I would like to respond that man is a social being and that there is nothing wrong with communal prayer. I do not recall the Sermon on the Mount occuring with anybody being sent to closets to pray. There is nothing wrong with communal prayer. I think that the Government ought to be neutral, at least, rather than hostile to prayer.

I have always been amused in an ironic sort of way that a kid can tell a teacher to do something obscene, and that will be defended as a right of free speech, but God help anyone who says, "Our Father, who art in heaven * * *" in school; he is violating the law.

The result is that this so-called wall of separation resulted in the Government—from the Supreme Court, not this body—being hostile to any form of recognition of the Fatherhood of God. It is a delicate matter, but public prayer I only say is certainly nothing to be disparaged. I do not think the Bible disparages.

Mr. JOHNSON of Colorado. I agree with the gentleman. I am not trying to disparage. I agree with much of what the gentleman said.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Johnson)

a sudden it becomes a disobedience problem. It becomes a behavior problem, much more coercive. I think that child can pray with his family at home or by himself, and he can be taught that by the family, not by some superintendent of schools.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. Johnson) has again expired.

(At the request of Mr. Levitas and by unanimous consent, Mr. Johnson of Colorado was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Georgia.

Mr. LEVITAS. I would like to also pursue this just a little bit further, if I may.

First of all, the gentleman is knowledgeable about this subject and I would appreciate his comments. There is nothing today that prevents any individual person from praying in school if they want to pray, is there?

Mr. JOHNSON of Colorado. Not that I know of.

Mr. LEVITAS. As a matter of fact, I would assume millions of students pray each day in school. Certainly many of them do so frequently right before examinations.

Mr. JOHNSON of Colorado. Or during.

Mr. LEVITAS. With great fervor and little effect, I might add.

The fact is that there is a difference between individual prayer and an organized prayer voluntary or otherwise,

of Nebraska and every other State of the Union to decide what would and would not be permissible forms of instruction in their schools. By mandating that the Department of Education actively engage in the "promotion" of prayer in all schools we would, in effect, be allowing the Federal Government to dictate religious instructions to our schools which are not operated according to the wishes of the people of the several States. constitution provides:

Article VII, section 11, of the Nebraska constitution provides:

> All public schools shall be free of sectarian instruction.

In 1902 the supreme court of Nebraska in the case of *State Ex. Cel. Freeman* v. *Scheue et. al.*, 65 Neb. 853, 91 N.W. 846 concluded that compulsory prayer in the public schools of the State of Nebraska offended the State constitution and stated:

> All that is intended to be said is that such matters (prayer), being the subject of sectarian differences, are excluded by the express words of the constitution from being taught or in any degree countenanced, in educational institutions maintained to any extent by the public funds.

The amendment by the gentleman from Pennsylvania (Mr. Walker) would abolish the standards and protection which the people of the State of Nebraska have sought to establish for their own educational system and substitute a system in which the Federal Government seeks to promote religious practices decided in has expired.

(At the request of Mr. LaFalce and by unanimous consent, Mr. Johnson of Colorado was allowed to proceed for 1 additional minute.)

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from New York.

Mr. LAFALCE. Prior to 1963, in the Supreme Court decision, the question of prayer in the public schools was considered constitutional. So that was the common practice in virtually every school in the country.

My question to the gentleman is, does the gentleman think the practice in the United States from 1776 through 1963, whereby prayers were recited and the Bible was read in the public school system, does the gentleman think that had a good or harmful effect overall?

Mr. JOHNSON of Colorado. I think overall it probably had a good effect.

Mr. LAFALCE. I thank the gentleman very much.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. MILLER of California. I would like to associate myself with the remarks of the gentleman in the well. I think he has given a very sensitive and personal statement. I think it is the right one. I think this is a matter of private and personal exercise. It is one thing to have prayer in this Chamber when nobody is here, for the most cases, and it is another thing to tell a small child that they must pray at that moment at that time; and all of is the point I believe the gentleman is making.

Mr. JOHNSON of Colorado. Certainly.

Mr. LEVITAS. To take it a step further, the gentleman from New York (Mr. LaFalce), who supports this amendment, as I understand it, has an amendment that will be offered shortly emphasizing the fact that the parents of a child have the primary responsibility for their education.

I would suggest that in something as sensitive and important as religious observance and prayer, that certainly their home and their particular church or synagogue or other institution or affiliation has the primary responsibility and not some public institution. Let us not let the Secretary of Education make regulations about prayer. That would be a serious power of intrusion into our lives to a Government bureaucrat.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield to the gentleman from Nebraska.

(Mr. CAVANAUGH asked and was given permission to revise and extend his remarks.)

Mr. CAVANAUGH. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman from Colorado and wish to associate myself with his remarks. In addition I wish to point out that the amendment of the gentleman from Pennsylvania would directly offend the constitution of my State of Nebraska and directly interfere in the historical right of the people Washington to be beneficial. I cannot support an amendment which would directly offend the educational standards long established and happily practiced in my own State of Nebraska.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Georgia.

Mr. McDONALD. Extending the gentleman's presentation further, does the gentleman have any problem or objection to the tax support of the chapel say at West Point or Annapolis or the Air Force Academy?

Mr. JOHNSON of Colorado. No; I do not have any problem with that, because I think at that point the United States is educating these particular individuals. I do not see any need for us to have to have Presbyterian and Baptist and Catholic and Jewish facilities on every one of those posts. We have a chaplain at every military post that is supported by the Federal Government. That is what those schools are essentially, military installations.

Mr. McDONALD. I thank the gentleman for yielding, but I do not believe that the purpose of the amendment of the gentleman from Pennsylvania was to suggest that it be either a Jewish or Catholic or Protestant prayer, but whether or not they should have the opportunity for a voluntary expression of prayer I believe in the Netcong Community decision in the Federal Courts, it was held students coming together on their own after school could not have prayers. Is the gentleman aware of that decision?

Mr. JOHNSON of Colorado. I do not want to get involved with constitutional argument about some of the Supreme Court decisions in that regard and how they have been interpreted. As a matter of fact, I think some of those interpretations are rather silly. For example, in our town, they have stopped schools from presenting Christmas plays. That is ridiculous in my opinion. But that has nothing to do with imposing as this amendment does a policy of promoting prayer in the public schools.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and rise in support of the amendment.

(Mr. WYLIE asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. Mr. Chairman. I rise in support of the amendment of the gentleman from Pennsylvania. I want to congratulate him on offering it here today. I think this is an issue which ought to be debated anywhere, any place at any time, and I think, to say that this is not a proper forum to discuss this amendment is not appropriate.

I have a feeling that the gentleman from New York (Mr. HORTON) and the gentleman from Texas (Mr. BROOKS) are suggesting that we ought to wait and go to the Judiciary Committee, but history has shown that the Judiciary Committee just does not bring this issue up or does not want to discuss it.

I had an experience on that myself in 1971 when the gentleman from New York, Mr. Celler, was chairman of that com-

secular pursuits for the day. Many schools across the United States of America have acted based on that decision. I might say that the Supreme Court of the United States denied certiorari which I thought was a mistake; the Court had a wonderful, glorious opportunity to clear up this whole issue, but the Supreme Court of the United States denied certiorari and, therefore, left that decision as the law, which in effect said public school students cannot meet in a public school building for voluntary prayer because it is unconstitutional because there are some public funds involved. So I think it is appropriate that we talk about this issue today, and if the gentleman from Pennsylvania (Mr. WALKER) can get his amendment adopted as a part of this bill today, I congratulate him and I support him.

I prefer the constitutional amendment route. More than that, I support the principle. It seems to me that when schoolchildren were denied the opportunity, or when public schools stopped starting the day for the schoolchildren with a prayer and the Pledge of Allegiance to the Flag, we lost something important to our way of life, and in the process of losing that something we got away from a practice that was very near and dear to our democracy for 192 years in the United States of America.

I notice in the amendment offered by the gentleman from Pennsylvania (Mr. WALKER), it says, "To promote in all public schools * * * prayer * * *." I am a little bit uncomfortable with the word

Mr. HORTON. If the gentleman will yield further, it seems to me that this is an appropriate place because the Federal Government is directing that this Department promote those opportunities, and it seems to me that is much more than the permissive attitude that the gentleman from Ohio would like to have.

Mr. WYLIE. As I say, I might be a little bit comfortable with the word permit. But, as distinguished between whether we are going to go on record in favor of voluntary prayer in a public school, which I think ought to be permissible and as long as it does not interfere with secular pursuits and as long as it is not a prayer which is prescribed by the Government, then I think the practice ought to be encouraged at every step of the way. That is the reason I am supporting the concept of the gentleman's amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think the point has been made here about the use of the word "promote," that it sounds as though it were a mandatory kind of function. I will say to the gentleman that he need not fear on this. It is language which is also included in other sections of the purposes. For instance, we are going to promote improvement in the quality and usefulness of education by promoting research and evaluation and sharing information.

1298

mittee. I thought we ought to have some hearings on a constitutional amendment to permit prayer in public schools. There was a lot of public feeling at that time. Mr. Celler indicated that he did not want to hold hearings in that regard.

I said, "Well, Mr. Celler, in order to satisfy some of the people who are asking me to do something about this issue, I may have to file a discharge petition."

He said, "Well, my boy, that is your prerogative within the rules of the House and may I suggest that you do that."

As many of the Members know, I did file a discharge petition. When we got 218 names on the petition the resolution came out on the House floor for debate. We received 62 more votes than half, but 21 less than the two-thirds needed for a constitutional amendment.

☐ 1530

The Netcong case was mentioned here a little while ago by the gentleman from Georgia, and it was, indeed, the Netcong case that caused the issue. I do not believe that the Engle against Vitale case, which was decided in 1962, directly said that it was unconstitutional to permit prayer in public schools. But in the Netcong case the Supreme Court of the State of New Jersey said that schoolchildren could not congregate in a gymnasium before school took up to read the Chaplain's prayer from the CONGRESSIONAL RECORD. The court said that was a violation of the Constitution and cited the Engle case, even though those students when the gong rang for secular pursuits dispersed and went about their "promote." I might prefer the word "permit," but I think it is important to establish the principle, and I think we ought to go on record today as saying we are in favor of allowing prayer in public schools. We think any forum is a proper forum to say so, if done on a voluntary basis, and I think it must necessarily be encouraged on a voluntary basis.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

The problem I have is that the place where the gentleman has chosen to amend is in section [illegible] which are the purposes which are enumerated in this particular bill, and there it says:

> The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment * * * The major purposes of the Department are:

What the gentleman from Pennsylvania (Mr. WALKER) attempts to do is to show that one of the major purposes of the Department is to promote—that is not permit but it is to promote—these opportunities for prayer, et cetera.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HORTON, and by unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

This is standard language for purposes and would have to be implemented through legislation later on. We simply want to get on the record that one of the purposes of this Department should be to speak to areas of education of Federal concern. Certainly one of the major changes that was made in education in this country was done by the Federal Government by withdrawing prayer from the public schools. Therefore, one of the purposes of this Department should be to promote the idea that prayer should be back in the schools, but it is going to have to follow with legislative authority in order to carry it out. This is just an expression of sentiment; it demands no requirements whatsoever. It is a place where it can fit into this bill. I would say that the gentleman from New York opposed me in committee when I asked that a report of school prayer be included in this Department.

Mr. WYLIE. The gentleman is using boiler plate language in his amendment, then, but it is his understanding from this colloquy that it certainly would be permissive, there would not be anything compulsory about it, and it would merely be for those students in the public schools who want to meet in a prayerful setting and use a public school building to do so. Is my understanding correct?

Mr. WALKER. I thank the gentleman for that clarification. That is absolutely the case.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WALKER. If the gentleman would yield further, I would say to the gentleman that the committee of jurisdiction, I assume in this case the Education and Labor Committee, would have to set the permissive standard under which the promotion would take place. There is nothing mandatory about this language whatsoever. It is not included in an operational section of the bill. It is simply set forth as a purpose of the Department to move toward the promotion of school prayer. I think it is entirely appropriate and it is permissive by definition.

Mr. WYLIE. Again I want to compliment the gentleman for his amendment. I think he is making a real contribution to the debate on this bill here today and I support him.

Mr. EDWARDS of Oklahoma. Would the gentleman yield?

Mr. WYLIE. I will be glad to yield to the gentleman.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

I am very much in support of voluntary prayer in the schools, but I must say this amendment does bother me. I think despite any kind of a colloquy we may have here on the floor, and despite any kind of a record we may try to make legislatively in the CONGRESSIONAL RECORD, there is a sizable difference between "permit" and "promote." There is a sizable difference when we begin to say that the Federal Government, in creating a department, shall be in the business of many of us have. While probably we question whether voluntary prayer should be prohibited in schools, we also question whether it should, by statute or direction from this body, be promoted. Neither should specific or sectarian prayers be prescribed.

It seems to me the thing we want to have, with the idea of maintaining local control as has been espoused here this afternoon and last week, is to allow at least for the permission to allow voluntary prayer in schools. So, I think this is a reasonable amendment, and I would hope that the body would concur in it.

Mr. PEYSER. Mr. Chairman, I was in my office a few minutes ago and I was listening to the debate on television when I heard this "prayer amendment" offered. I found it really hard to believe that we were back at this point again, because I remembered in November of 1971 when the prayer amendment was first on the floor of the House. At that time the Members across the board were being threatened by groups throughout this country, highly organized groups that if we did not support the prayer amendment they were going to run candidates against us and put up billboards in our districts, and they were going to make it impossible for people against prayer to be elected.

☐ 1540

I remember being very concerned over this issue. I was a freshman at that time and I looked on this and I remember saying to myself, you know, when I went to 1971. I just went looking through my wallet now to see if I could find this and here it is. Thank goodness, for once I kept a scrap of paper and could lay my hand on it when I wanted it.

This is what the Speaker of the House said on November 8, 1971, dealing with prayer in the schools:

> Any voluntary prayer, any nondenominational prayer, is not theology. Any interference by an official at any level is a violation of freedom of religion. I am not prepared to let the meddling hand of government at any level in any degree be placed on any man's altar.

I think that thought is as true today as it was then and I hope that any effort at this time of putting prayer back, permitting prayer, promoting prayer in the public schools will be put to rest overwhelmingly by this Congress and voted down.

I yield back the balance of my time.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

I thank the gentleman. I would like to rise to say that I am prepared to accept the amendment as offered by the gentleman from Michigan (Mr. ERDAHL) to change the word from "promote" to "permit".

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, very briefly I do not think the issue here is whether we are for or against prayer or for or against God. I think what needs to happen on the floor of the House is a recognition of our oath of office which requires that we be

1300

1307

promoting.

I will say to the gentleman from Ohio we have shared the opposition to what the Government and Government agencies do when they promote things. How do they promote things? They promote with enticements, inducements, withholding money, all kinds of ways that a Federal agency has the power to promote, which it has been asked to promote by this Congress, and so I would just say to the gentleman that I am very concerned about this amendment because there is a sizable difference between permitting prayer, which I favor, and promoting prayer, which I am not certain at all that I can support.

Mr. WYLIE. Would the gentleman support the amendment if we deleted the word "promote" and substituted "permit?"

Mr. EDWARDS of Oklahoma. I would say to the gentleman I probably would support him in that case. That would make it a totally different amendment, a totally different intention.

AMENDMENT OFFERED BY MR. ERDAHL TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. ERDAHL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> The amendment offered by Mr. ERDAHL to the amendment offered by Mr. WALKER: In paragraph (8) which would be added by the amendment, strike out "promote" and insert in its place "permit".

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. ERDAHL. Mr. Chairman, basically my amendment addresses a concern public school they had prayer. It was not so bad and it really did not seem to bother me or hurt me and I was really thinking of voting for this issue combined with the fact that I had all these people who were going to go out and vote against me and run opposition, I was really on the verge of voting for the prayer amendment.

I started talking to some people who were telling me what happened to them in school, people who were of different faiths than I am and people who were exposed to a different religious experience explaining to me the impact prayer in school had on them and it was not at all that easy and it was not that simple and it did create problems for them.

Then I began thinking, why do we really have to do this, most religious leaders in this country were in opposition to prayer in the schools, any sort of prayer in school. This surprised me because at first I thought, well, that was sort of a religious amendment and, therefore, religious leaders would be very supportive of this. However, religious leaders were not at all supportive of this. This was in 1971 and I am confident nothing has happened to change their point of view since then.

At that time Carl Albert was Speaker of this House and it was very seldom, that he took the well of the House but he took it on that day, on November 8, 1971. On that day the House was filled. There were no empty seats because of the level of this debate. I was so impressed with what the former Speaker said that I copied it down and I have actually had this card in my wallet since November 8, sensitive to the Constitution, the requirements of the Constitution.

The first amendment makes it very clear there ought to be separation of church and state. Indeed, our forefathers built it into the Constitution by stating that—

> The Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.

Why did they do that? Because obviously many of our forefathers were escaping religious persecution in which the state had a tremendous role to play in terms of dictating what kind of religion would be practiced in those particular States.

How do we interpret that particular amendment? In our process of government the Supreme Court interprets what the Constitution means or does not mean. The Supreme Court has spoken very clearly on this issue in stating that this amendment to the Constitution prohibits any kind of affirmative role by government that either mandates prayer or dictates what kind of prayer should take place in the school. I think that is very clear.

The question then is whether we are going to take any action on the floor of the House which injects the government into an affirmative role in this area.

Whether you use the word "promote" or whether you use the word "permit", any time you mandate some kind of affirmative action by the Government, it means we are going to have issue rules and regulations, it means we are going to have to take regulating action, indeed it means the Department is going to have to take deliberate steps which are violative of the interpretation of the Supreme Court.

I think the Supreme Court has spoken clearly on this issue. I think the Constitution has spoken clearly on this issue. If we want to change it, it ought to be changed through a constitutional amendment, but it ought not to be backdoored through an amendment that raises all kinds of very serious questions regarding our Constitution process.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I will be happy to yield.

Mr. FASCELL. Mr. Chairman, I want to associate myself with the remarks of the gentleman. I ask the gentleman, by changing this language from "promote" to "permit" does it not strike the gentleman this is the making of a policy decision which will be incumbent upon the new Secretary of Education; and the very thing most of us are trying to do in protection of local education is being subverted by the very language of this amendment?

Mr. PANETTA. I think the gentleman is absolutely correct. Having worked in the Office of Education I can tell you that the language of the amendment "to permit in all public schools providing elementary and secondary education a daily opportunity for prayer" is an affirmative mandate by the Congress. I think there is no way around that. We are, in fact, dictating that they go ahead and issue rules and regulations permitting this kind of prayer. I think that is violative

Mr. PANETTA. If I may redeem my time, Mr. Chairman, I think, in fact, what we have now is a permission that people can freely exercise that right on a voluntary basis.

There is nothing in the law that prohibits a child in school from exercising that right to voluntary prayer. This injects the Government on an affirmative basis.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. LaFalce and by unanimous consent Mr. Panetta was allowed to proceed for 1 additional minute.)

Mr. LaFALCE. Will the gentleman now yield to me, Mr. Chairman?

Mr. PANETTA. I yield to the gentleman from New York.

☐ 1550

Mr. LaFALCE. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from New York.

Mr. LaFALCE. Mr. Chairman, the gentleman from California has indicated that the Supreme Court has spoken clearly in opposition to an amendment of this nature.

I am wondering if the gentleman could advise me of the decision. I am aware of the Engel decision, whereby they invalidated a State-composed prayer. I am also aware of the Abington decision in 1963 where in the concurring opinion of Justice Brennan, he indicated quite clearly that an amendment of this nature would be constitutional, rather than un-

would flow to the Federal Government here and so on from prayer.

I assume then the gentleman believes that is also true of all the rest of the things that are under the purposes of the department, too, that those same kinds of power from the gentleman's experience within the department will be there for every one of these other seven or eight items that are a part of the purposes in this bill; is that correct?

Mr. PANETTA. Clearly, that is a question that I think has to be addressed in the whole issue of creating a Department of Education; but as part and parcel of that, to include prayer which I think clearly raises a constitutional issue seems to me to be going beyond.

Mr. WALKER. So in other words, when it says here, if the gentleman will yield further, when it says here that we are going to get involved in State and localities and public and private institutions and all this kind of thing, that same kind of power is going to be wielded there as outlined in the purposes section; is that not true?

Mr. PANETTA. If I am not mistaken, the gentleman has been making those arguments over the last several weeks. I would think the gentleman would concur with that.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Erdahl) to the amendment offered by the gentleman from Pennsylvania (Mr. Walker).

of the Constitution and the interpretation of the Constitution by the Supreme Court.

Mr. WYLIE. Mr. Chairman, would the gentleman yield?

Mr. PANETTA. I will be pleased to yield.

Mr. WYLIE. I thank the gentleman for yielding.

The gentleman did mention the U.S. Constitution says that the Government shall not promote a religion. There is indeed a prohibition against promotion of a religion by the Government. I would note that the Supreme Court mentioned that particular phrase in its decision. It said nothing about "or permit the free exercise thereof," which is also in that article of the Constitution.

I submit that the court in the Netcong case, when the court said that a group of students could not meet in a gymnasium voluntarily before school took up and read the chaplain's prayer from the CONGRESSIONAL RECORD, were not permitting the free exercise thereof. So I think that case was contrary to the permission clause of the Federal Constitution. I think if the Congress of the United States can go on record here today and say as a matter of policy—and I think if this issue were placed on the ballot that it would be passed overwhelmingly by 70 or 75 or 80 percent of the American people, we would like to have some leeway in permitting prayer in public schools on a voluntary basis.

I wonder if the gentleman had given thought to that other part of the constitutional provision which says "or permit the free exercise thereof"? constitutional. I ask to be educated further.

Mr. PANETTA. Well, if I might respond, I think the issue here again if we combine all the cases——

Mr. LAFALCE. Mr. Chairman, the gentleman said the Supreme Court has spoken clearly on the constitutional issue.

Mr. PANETTA. If we combine all the cases that have been addressed here, the clear issue is whether the Government takes an affirmative role in promoting prayer. When we put down an amendment that says to permit or to promote or to do whatever, we are injecting the Government into an affirmative role.

I think clearly that raises constitutional questions. I think if it is going to be directed, it ought to be directed via a constitutional amendment, not in the form of an amendment that tries to tell the Department of Education it shall, in fact, do something the Court says cannot be done.

The CHAIRMAN. The time of the gentleman from California (Mr. PANETTA) has again expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. PANETTA was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I just wanted to make a clear point here, the gentleman went through and I think made an excellent point about the fact that there would be a lot of power that

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1600

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 122, not voting 57, as follows:

[Roll No. 209]

AYES—235

Abdnor
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonker
Bowen
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goodling
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Pashayan
Paul
Pepper
Perkins
Petri
Pursell
Quayle
Quillen
Rahall
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Royer
Runnels
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Gore
Gradison
Gray
Green
Hall, Ohio
Harris
Hawkins
Holtzman
Horton
Howard
Jeffords
Johnson, Colo.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Levitas
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Matsui
Mattox
Mazzoli
Mikva
Miller, Calif.
Moffett
Nedzi
Nolan
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Preyer
Pritchard
Railsback
Rangel
Ratchford
Reuss
Richmond
Rose
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
Spellman
Stack
Stark
Stewart
Stokes
Studds
Stump
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vento
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolpe
Yates

NOT VOTING—57

Addabbo
Ambro
Anderson, Ill.
Badham
Beilenson
Bolling
Bouquard
Breaux
Conyers
Corman
Crane, Philip
D'Amours
Danielson
de la Garza
Derrick
Diggs
Dingell
Dornan
Drinan
Eckhardt
Fary
Flood
Forsythe
Frenzel
Fuqua
Goldwater
Hagedorn
Hammerschmidt
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Lee
Lloyd
Lott
McKay
Madigan
Marks
Mineta
Moorhead, Pa.
Pickle
Price
Rhodes
Rodino
Rostenkowski
Rudd
Russo
Schulze
Shuster
Steed
Treen
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Mo.
Zeferetti

The Clerk announced the following pairs:

permission to revise and extend his remarks.)

[Mr. SKELTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. SKELTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LA FALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAFALCE: Page 34, lines 22 and 23, strike out Section 101(3) and insert (3) Parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Chairman, this amendment would simply clarify the primary parental role regarding the education of children within the United States and clarify that the role of the State is to be supportive of that primary parental role.

I would hope that it could be accepted.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I will be happy to accept the amendment. I think it is a good amendment.

Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Fish
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—122

Anderson, Calif.
Ashley
AuCoin
Baldus
Barnes
Bingham
Blanchard
Bonior
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corcoran
Deckard
Dellums
Dicks
Dixon
Dodd
Downey
Duncan, Oreg.
Edgar
Edwards, Calif.
Fascell
Fazio
Fenwick
Findley
Fisher
Foley
Ford, Mich.
Frost
Glickman
Gonzales

On this vote:

Mr. Ambro for, with Mr. Johnson of California against.

Mr. Breaux for, with Mr. Mineta against.

Mr. Fary for, with Mr. Conyers against.

Mr. Dornan for, with Mr. Eckhardt against.

Mr. Shuster for, with Mr. Diggs against.

Mr. Schulze for, with Mr. Drinan against.

☐ 1620

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEE. Mr. Chairman, I was unavoidably absent when the vote occurred on the Walker amendment to permit prayers in public schools on a voluntary basis. Had I been present on rollcall No. 203, I would have voted "aye."

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Skelton: Page 56, line 22, insert "(a)" immediately after "Sec. 106.", and on page 57, after line 7, insert the following new subsection:

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law.

(Mr. SKELTON asked and was given

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LaFalce).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 57, immediately after line 7, insert the following new section and conform the table of contents accordingly:

LIMITATION ON FUTURE GROWTH OF BUDGET AUTHORITY

Sec. 104. It is hereby declared to be the intention of the Congress to limit any growth in the total amount of budget authority which is to be provided for all functions and offices transferred to or otherwise established in the Department, including functions and offices transferred or established subsequent to the effective date of this Act, so that the total amount of such budget authority will not exceed the sum of—

(1) the budget authority which is available for the functions and offices transferred by this Act (including functions and offices the transfer of which is delayed to a date subsequent to the effective date of this Act) for the fiscal year in which this Act takes effect, and (2) an amount equal to the product of the amount described in paragraph (1) multiplied by the aggregate percentage increase in the Consumer Price Index for all Urban Consumers between the beginning of the fiscal year in which this Act takes effect and the beginning of each subsequent fiscal year.

Mr. KRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to

the request of the gentleman from Colorado?

There was no objection.

Mr. KRAMER. Mr. Chairman, as I think all of us recognize today, the budget of our country is really uncontrollable and out of control. The gentleman from Georgia, several hours ago, in his remarks, indicated that it was the intention of the creation of this Department that there be indeed no new programs. I could not agree with that intention more.

What my amendment will do, if it is accepted, is in fact, insure that the purpose for which this Department is being created, in other words, streamlining and making it more efficient, will indeed be assured.

This amendment would, in effect, cap the budget authority of the new Department of Education at the level, as specified in this legislation, with allowances for cost-of-living increases every year, tied in with the Consumer Price Index. That is all it does.

☐ 1630

In my home State of Colorado we have a provision such as this that we passed several years ago that limited spending 5 percent, 7 percent across the board. It has worked quite effectively.

This is more flexible in that we do not go with a flat percentage, but the idea is, indeed, the same. It is offered in the context of the need to restrict future Government spending and reduce the Federal deficit.

We must begin to assert our willingness to take positive steps to this end grew 108 percent and employment only 25 percent.

The gentleman from North Carolina (Mr. Fountain) has said that this new department will become another monster in the Federal Government, and it is going to grow and grow and grow. My amendment would assure that this will not happen. It will allow reasonable growth; it will allow for inflation; it will allow for increases in the Consumer Price Index. But, it will not allow for the mushrooming expansion that we have seen in departments such as HEW, Energy, and Transportation, and all of the rest.

Let us see what some of the principal proponents for this new department have in mind. The NEA is quoted in the Arizona Gazette for February 24, 1979, as having as one of its goals a 400-percent increase in Federal funding of public education, amounting to a third of the total cost.

Reader's Digest quotes the NEA Executive Director on NEA's ultimate goal:

> To tap the legal, political and economic powers of the U.S. Congress. We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to reorder the priorities of the United States of America.

In NEA's position paper on the Department of Education legislation it states:

> A Department of Education would probably be granted more funds for education earlier in each fiscal year.

support this reasonable spending limitation for future years in the Department of Education and start putting our Federal fiscal house down the road toward soundness and fiscal responsibility in the years to come.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Pease and by unanimous consent, Mr. Kramer was allowed to proceed for 1 additional minute.)

Mr. PEASE. Would the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Ohio.

Mr. PEASE. I do not wish to make a judgment about the gentleman's amendment, but it does disturb me somewhat that he uses the analogy of the Department of Energy. Is the gentleman suggesting that in this period of energy crisis the Federal Government ought not to be spending more money for energy research to solve these problems?

Mr. KRAMER. I am not suggesting any criticism or any recommendations about the spending of any particular department at this time. I am simply pointing out what has happened historically, and I have taken it basically in the three new departments that have been created in relatively recent years and shown what has happened with mushrooming budgetary authorities over the period 1968 to 1978 for some of them, and over the last couple of years for the Department of Energy.

Mr. PEASE. If the gentleman will yield

rather than continuing to talk about it. Much concern has been expressed about the inevitability of budget growth in a new department, and there is reason for this concern. Let us look at the historical precedent. The Education Division itself has grown from a budget in 1953 of $235 million to the $14.5 billion contained in this bill today. That only represents 8 percent of the funds spent in total on education in this country. Ninety-two percent of the funds continue to come from State, local, and private sources.

Let us not forget about the history of other departments which we have created in this country in recent years under the guise of efficiency and streamlining. Let me give the Members some very interesting statistics very quickly.

The Department of Energy in 1977 had a budget authority of $6.6 billion. In 1979, today, that authority has grown to $12.6 billion, or a 91-percent increase in budget authority.

There is a cap on employment in this bill which I fully support, but that alone will not solve the problem.

By comparison, in that same Department of Energy where the budget authority increased from the 1977 to 1978 period 62 percent, employment increased only 3 percent. So, employing a cap on employment is no assurance of controlling expenditures within a department.

In the Department of HEW from 1968 through 1978 their budget authority grew 363 percent. Employment at the same time grew only 47 percent. In the Department of Transportation in the period of 1968 to 1978 their budget authority

This amendment would declare this Congress intention that this Department should not grow at a rate greater than that of the general economy. It would impose on this one department a reasonable limitation. It would serve as a positive indication by this Congress that we are willing to take the hard steps that are necessary to curb the future growth of Government.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Thank you, Mr. Chairman.

It is our intention in future years that the addition of new initiatives will require that old ones be reexamined and priorities be placed on existing programs and new ones.

The only people who fear this amendment are those who do, indeed, intend that this Department be used to greatly expand the Federal funding of education and thus greatly expand the role of the Federal Government in education. This amendment is consistent with the arguments that the intent of reorganization is to consolidate, to streamline, and to save taxpayers' dollars. And it is consistent with the provision in the bill that is already there which restricts the growth of future employment levels in the Department. It is not duplicative of this provision, but a desirable complement to it.

With that explanation, Mr. Chairman, I hope that the Members will see fit to further, does not the employment cap or ceiling, as he suggested in his remarks, in the Department of Energy suggest that the increasing budget authority has gone into research?

Mr. KRAMER. I thank the gentleman for the reminder. Did the gentleman want a response?

Mr. PEASE. If I might.

Mr. KRAMER. I think the only thing my comment suggests is there is no necessary correlation between capping a figure on employment and capping budgetary expenditures. I think for those in the Chamber who feel that by capping employment we have solved the problem of increasing budget expenditures, we have, indeed, not.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LAGOMARSINO, and by unanimous consent, Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from California.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for his amendment and associate myself with his remarks.

Mr. Chairman, I am disappointed that one of the top priorities of this Congress—supposedly elected in the midst of a massive taxcutting spirit—is to create a new Federal department.

I am sure that many of my colleagues campaigned on the basis of their tax-cutting fervor. Almost all of them—at one time or another—probably lambasted the Federal Government for its size and inefficiency. I know its one of the issues I campaigned hardest on, and it is why I am opposed to a Federal Department of Education.

We have heard time and again how huge the Department will be, how much it costs, how much more paper it will produce. And most of us have heard from our constituents, who are fed up with big Government and big taxes. That is why I am disappointed that we are spending so much time considering something that taxpayers clearly do not want.

I am not opposed to the improvement of our educational system. I agree that it should be one of our highest priorities. But it has traditionally been [illegible] for local governments—for towns and cities—to decide on their own local needs. If we decide to spend this money at all, we should decide to send it to the local governments, to the individual classroom, where education really takes place. A new department downtown, deciding on abstract national education policy, is not going to have much of an effect on individual schoolchildren in my district, or any other district.

One of my biggest worries—one that has been mentioned many times today—is that we are creating a lobby for specialize categorical grants. I am not opposed to the intentions of categorical germane. It would not even be germane except it is just an expression of intent. Congress should not appear to bind itself on succeeding Congresses in this way.

I would accordingly say that this kind of an amendment should not burden and be put upon any legislation and I would ask the Members to vote in opposition to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1640

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its busi-

Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Marlenee
Marriott
Martin
Mathis
Mazzoli
Mica
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Petri
Pickle
Quayle
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Runnels
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Tex.
Winn
Wylie
Yatron
Young, Fla.

NOES—187

Akaka
Albosta
Alexander
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Giaimo
Gibbons
Gingrich
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Heftel
Holtzman
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo

grants. Often that is the only good thing about a categorical grant. But they are misdirected so many times, and end up in the hands of crafty lobbysts who have managed to comply with the application requirements. The grants just do not seem to be solving the problems they are addressed to.

And now we are thinking about creating a Federal department, with a huge corps of Government workers that will have a vested interest in maintaining categorical grants. We all know how hard it is to abolish or restrain an agency once it has been started.

As I say, Government regulations and Government bureaucracy is something we all condemn. It is something we all claim to be against. I think we should live up to our promises, show that we are serious about cutting the budget, and vote against this Department. I know that many of my constituents are watching my vote, and I am glad to take this opportunity to express my views on big Government.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Let me say, Mr. Chairman, the amendment would improperly impose on this new Department a very unique requirement. The Congress, if it so chooses, can, through careful control of the appropriations process, accomplish the purpose of this amendment.

If the legislation is subject to annual consideration by the authorizing and appropriation committees, it would not be ness.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 187, not voting 63, as follows:

[Roll No. 204]

AYES—184

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan

Daniel, R. W.
Dannemeyer
Deckard
Derrick
Derwinski
Devine
Dickinson
Donnelly
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Findley
Fish
Flippo
Fountain
Gaydos
Gephardt
Gilman
Glickman
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hall, Tex.
Hance
Hanley

Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler

Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Clay
Coelho
Coleman
Collins, Ill.
Conte
Cotter
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Dicks
Dixon
Dodd
Dougherty
Downey
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fascell
Fazio
Fisher
Fithian
Florio

Horton
Howard
Hughes
Jenkins
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Madigan
Maguire
Markey
Matsui
Mavroules
Mikulski
Mikva
Miller, Calif.
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi

Roe
Rose
Rosenthal
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Whitley
Whitten
Williams, Mont.
Wirth
Wolff
Wolpe
Yates
Zablocki

NOT VOTING—63

Addabbo
Ambro
Anderson, Ill.
Badham
Beilenson
Bolling
Bouquard
Breaux
Brown, Calif.
Conyers
Corman

Crane, Philip
D'Amours
Danielson
de la Garza
Diggs
Dingell
Dornan
Drinan
Eckhardt
Fary
Flood

Forsythe
Frenzel
Fuqua
Goldwater
Hagedorn
Hammer-schmidt
Hansen
Jenrette
Johnson, Calif.
Jones, N.C.

Jones, Okla.
Lloyd
Lott
McKay
Marks
Mattox
Michel
Mineta
Moorhead, Pa.
Price
Rhodes
Roberts
Rodino
Rostenkowski
Rudd
Russo
Schulze
Shuster
Stark
Steed
Stewart
Treen
Weiss
Wilson, Bob
Wilson, C. H.
Wright
Wyatt
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Addabbo against.

Mr. Schulze for, with Mr. Johnson of California against.

Mr. Shuster for, with Mr. Eckhardt against.

Mr. Wydler for, with Mr. Flood against.

Mr. Badham for, with Mr. Conyers against.

Mr. Philip M. Crane for, with Mr. Diggs against.

Mr. Goldwater for, with Mr. Weiss against.

Mr. Hansen for, with Mr. Drinan against.

Mr. Michel for, with Mr. Fary against.

Mr. KAZEN changed his vote from "no" to "aye."

Mr. MOLLOHAN and Mr. MURTHA changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: on page 57, line 7 strike "law."

And insert in lieu thereof the following

Where do we think the regulations that intrude in saying to Dayton, Ohio, who a principal shall be and who shall be appointed? By law, by color of authority. That is what "law" means.

By putting that one word in there, we have negated the whole purpose of the section.

What I would offer is this: If we are serious about insulating local schools from intrusion, the words I have offered are in my opinion much better. I am saying, ". . . to the extent specifically authorized by Federal statute."—period.

I go on to say: "Regulations issued by the Department of Education shall not have the standing of a Federal statute for the purpose of this section."

If we leave those two words, "by law" in there, all that is, is a code word leading to bureaucracy.

Are we going to stand here and say they have acted illegally when they have intruded in our schools? Every Member who has taken the well has indicated that they were opposed to control. My friend, the gentleman from Georgia (Mr. LEVITAS), pointed out areas of invasion of school districts.

I will ask the Members, I will very honestly ask my friend, the gentleman from New York (Mr. HORTON), and I will ask my friend, the gentleman from Texas (Mr. BROOKS), if they believe that under section 103 the new Department of Education could not do precisely the same thing the Office of Education has done, if it could not become involved in fraternities and sororities, if it could

Mr. ASHBROOK. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I just want to be clear on what the gentleman is saying. As I read the rest of the amendment, however, I gather that the purpose of it is to say that there cannot be any regulations; is that correct?

Mr. ASHBROOK. There cannot be any regulations in section 103 that involve control of local school districts. Precisely. That is exactly what I am saying.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, I will say to my friend, the gentleman from Florida, that is where the regulations come from. They come from law. We pass the law. They pass the regulations. They invade local school districts under color of law. We have never voted on them specifically. We have given them the authority. So I am saying only where we directly say in a Federal statute we want this to be an educational policy. At that point, we clearly become engaged in control or direction of local school districts. But we have done it with the Congress assembled, a vote of the House and the Senate, signed by the President, which is entirely different from somebody sitting behind a desk and saying, "Oh, I think I can become involved in sororities, I think I can become involved in fraternilanguage: "by federal statute. Regulations issued by the Department of Education shall not have the standing of a federal statute for the purposes of this section."

Mr. **ASHBROOK**. Mr. Chairman, I would particularly like to call this amendment to the attention of the proponents of this bill, particularly those who have looked with pride on section 103 as permitting local control. I hope my good colleague, the gentleman from Georgia (Mr. Levitas), is on the floor, because in particular I want him to peruse this amendment.

Most of the proponents of this bill have talked about the intrusion of the Office of Education into local schools. I will say categorically as a Member who has been on an Education Committee for 19 years that there is nothing in section 103 that would in any way inhibit the new Department of Education from doing precisely what has been done before by the Office of Education in HEW. Their record of intrusion and control is just like a road map, and we put exactly the same language in here.

Let us go back 7 years. We had a busing amendment; we had a conference with the Senate; we were held up for months until they arrived at the language we have here: "There shall be no busing except where authorized by law."

Now, what do we mean by "authorized by law"?

We mean regulation, we mean court orders, we mean any color of authority.

Where do we think the regulations that relate to boys' and girls' choirs come from? By law.

not become involved in separate banquets in the schools, and if it could not become involved in boys' choirs and girls' choirs.

Every one of these invasions of local school authority came by law. We do not think they acted illegally, do we? Of course not. They acted by law, by their interpretation of law, by the interpretation of law giving them the authority by regulations they had implemented under the law.

Unless we put in the protection of saying, "by Federal statute,"—period—we have absolutely promulgated a meaningless sentence.

Now, if that is what we intended to do, fine, let us vote on it and let us find out. If we intend to do that, if we want to give the new Department of Education the precise authority that the Office of Education in HEW has had, let us find out so we can now go ahead, and let us not stand up here and say we are trying to protect local school districts from the controls that emanate from Washington.

We know how they do it. They do it by law. They do it precisely in the way that this would be authorized in section 103.

□ 1710

By my amendment we are delineating and we are saying "by Federal statute." "Federal statute" means us; it does not mean somebody sitting down on Pennsylvania Avenue. It does not mean some court. It means the U.S. Congress "Federal statute" period. I do not know how one can make it any more clear than that.

Mr. **FASCELL**. Mr. Chairman, will the gentleman yield?

ties. I do not really believe that boys choirs or girls choirs should be separated; therefore, under the authority I think I have I will promulgate a regulation." Let us say no to that type of involvement.

I would say to all of the Members that if we want to honestly say, as a matter of policy, that local school districts should do ABC or XYZ, let us have the honesty to do it ourselves by statute.

The **CHAIRMAN**. The time of the gentleman from Ohio (Mr. Ashbrook) has again expired.

(On request of Mr. Panetta and by unanimous consent, Mr. Ashbrook was allowed to proceed for 2 additional minutes.)

Mr. **PANETTA**. Mr. Chairman, will the gentleman yield?

Mr. **ASHBROOK**. I yield to the gentleman from California.

Mr. **PANETTA**. I thank the gentleman for yielding.

Mr. Chairman, I guess the question I have is: When we do pass statutory law, then that becomes incumbent upon departments and agencies to issue regulations and rules that define what that statute states.

Mr. **ASHBROOK**. That is where the problem is coming from.

Mr. **PANETTA**. I understand that. But I do not take it that the gentleman's amendment is intended to limit what may be those rules and regulations to implement statutory law.

Mr. **ASHBROOK**. Absolutely not. If they want to say that, they have to have a report. But when you are talking about controls, if you want prohibitions against

Federal control, certainly you better not give Federal authorities the ability to become involved in local school districts.

Mr. PANETTA. The gentleman is not taking away from the departments or agencies the ability to issue those rules and regulations; what the gentleman is saying is that those rules and regulations will not have the standing of a Federal statute.

Mr. ASHBROOK. They will not have the standing of a Federal statute to the extent that section 103 applies. It says "for the purpose of this section." If we are going to be honest about it, then we cannot let that loophole in, because that loophole is where the controls are going to come from.

Mr. PANETTA. I think we have to be honest with a court as to what the statute means or does not mean.

Mr. ASHBROOK. Yes. And if the Supreme Court in effect tells us we have to do something, then at least we would have to go with a Federal statute to do it. We will cross that bridge when the time comes. It would not be someone sitting downtown somewhere and saying, "Yes, a court said something." At least by limiting it to ourselves the Federal statutes, the courts operate as they will, but we do have some control over the bureaucracy. From my point of view, if we do not put the leash on them, they will do exactly what they have done for the last 10 years.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned my name in reference to this amendment.

Mr. ASHBROOK. Right.

Mr. LEVITAS. I have heard the amendment read, I have read the amendment, and on this occasion I agree with the gentleman.

Mr. ASHBROOK. I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 56, line 22, insert "(a)" after "Sec. 103." and page 57, after line 7 insert:

"(b) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system."

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas (Mr. Brooks) insist upon his point of order?

Mr. BROOKS. Mr. Chairman, I certainly do.

The CHAIRMAN. Does the gentleman wish to be heard on his point of order?

Mr. BROOKS. Mr. Chairman, I certainly do.

The CHAIRMAN. The gentleman from Texas (Mr. Brooks) is recognized.

Mr. BROOKS. Mr. Chairman, I want to say that just a simple reading of the amendment says that it is going to try to make a plan of desegregation of any institution.

☐ 1720

I do think we can have any such plan really in that fashion. I do want to make a point of order against the amendment under rule XVI, clause 7, which requires amendments to be germane to the subject under consideration.

In order to be germane, an amendment must have the same fundamental purpose as a bill under consideration.

The purpose of H.R. 2444 is to establish a Department of Education. It deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants and employees that are not now authorized by law are not consistent with that organizational purpose and therefore should be ruled out of order.

A further test might be that such an

Mr. ASHBROOK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am very much concerned about this statute, precisely the problem I discussed this morning concerning that small college. There was a regulation because the law said you can withhold federally-funded schools. The law did not say you cannot strike any school through the students. But it was interpreted that way, and the administrative law judge had to interpret it that way. But what worries me about this amendment—and I am willing to vote for it—I wish the gentleman would have stopped at "Federal statute" period. There have to be some regulations there. In some areas some regulations have to be promulgated and obeyed.

Mr. ASHBROOK. But not as to control.

Mrs. FENWICK. No. Would it damage the gentleman's amendment if we did end it "Federal statute" period?

Mr. ASHBROOK. It would damage it to the extent that then we would not have a positive statement saying a regulation would not have the standing of a statute, because they are operating now within the statute. And I think if we open that up, we might just as well say "by law."

Mrs. FENWICK. But if we ended it with "a Federal statute" period, that would not be sufficient?

Mr. ASHBROOK. I think it would not.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. ASHBROOK was

Mr. BROOKS. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. BROOKS) reserves a point of order on the amendment.

Mr. ASHBROOK. Mr. Chairman, plain and simple, this is a busing amendment. I think the Members have gotten the drift. About 80 to 90 percent of our constituents, black, white, of all races, when polled, are against forced busing, forced racial balance schemes. Over the years we have placed many amendments in the RECORD, we have placed many amendments on the books. More often than not, they have been weakened. As I said on the previous amendment, I sat on the conference for 4 or 5 months. Finally, the language was derived that there shall be no busing except where ordered by law. That is just in effect saying there will be busing. The court may take a different position, but I think we can at least have some degree of control over our own creation, the Department of Education. Regardless of what courts might say, regardless of what the constitutional situation might be as interpreted by the courts, I believe the Congress should at least be on record telling in enforceable language the Department of Education that they shall not become involved at any level, no matter what color of law they operate under in busing, forced busing, busing schemes of any kind.

I urge my colleagues to adopt it, as we have adopted busing amendments in the past, and possibly—just possibly, this time we can make one stick.

amendment would certainly not be sent to the Government Operations Committee if it were offered as a bill on the floor of this Congress.

The CHAIRMAN. The gentleman from Ohio (Mr. ASHBROOK) is recognized on the point of order.

Mr. ASHBROOK. Mr. Chairman, even the most strict reading of the preamble clause of this bill, which, as my colleague has indicated, has come out of the Government Operations Committee—not the Judiciary Committee, not the Education Committee, it has come out of the Government Operations Committee—even the most strict interpretation if you read the preamble, they talk about every facet of education, promoting education, making reports available; every particular facet of education that relates to elementary and secondary schools, is reposited in the Department of Education.

I do not think there is an American, let alone a Congressman, who believes that busing in one way or another is not a part of education. I do not believe there is a Member of this Chamber who believes in one way or another busing will not be under consideration by the newly created Department of Education, and for all those purposes, I believe it to be absolutely germane. I hope the Chair will so rule.

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) is recognized on the point of order.

Mr. ERLENBORN. Mr. Chairman, I understood the chairman of the committee, in pressing his point of order, to say that the rule requires that nothing in the bill go beyond the purpose of the bill. He said the purpose of the bill was to create the structure of the Federal Department of Education. It had to do with structure only.

I call the attention of the Chair to section 439 of the bill as reported by the committee.

It says:

> Notwithstanding any other Federal law which provides that a single State or local government, department, agency, multimember board or commission, or other organizational unit, or specific officer within a department, agency, multimember board or commission of State or local government, must be established or designated to administer any grant-in-aid program of the Department, upon certification by the appropriate executive or legislative authority of the State or local government responsible for determining or revising the organizational structure of such government that such provisions prevent the establishment of the most effective and efficient organizational arrangements within the State or local government, the Secretary may waive such provisions and approve other State or local administrative structures or arrangements, when he determines that the objectives of the Federal statute authorizing the program will not be thereby endangered.

Mr. Chairman, I submit this is basically amending the General Education Provisions Act, which has nothing to do with the structure of the Federal Government. The General Education Provisions Act provides for the structure within a State that applies for Federal funds and requires that there be a State

The amendment is a further restriction on construction of other authority of the Secretary in construing existing education law, is germane to title I and the Chair therefore overrules the point of order.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment deals with the functions and authorizations of programs transferred by the bill and seeks to attach to those programs and functions a prohibition concerning transportation of students.

The substance of the programs and the functions transferred are beyond the scope of this purely organizational measure. This is not the proper vehicle for consideration of a substantive educational policy issue such as busing.

H.R. 2444 is concerned with reorganizing existing Federal education programs in a manner that will hopefully best produce a comprehensive, cohesive Department of Education. The bill does not presently relate to substantive educational policies, and it is most inappropriate to consider busing in connection with this bill right now.

This amendment would have a long-term effect, if adopted, on educational policies in this country. It is an issue that requires hearings, investigations, and debate. It should not be attached to a reorganization measure.

I would ask for a "no" vote on the amendment.

Mr. PANETTA. Mr. Chairman, I rise and whether we would bus a child away from the neighborhood school. That has been the text of the amendments that we have dealt with before in the House of Representatives.

What this amendment will do is essentially prohibit the transportation of students or teachers anywhere, even if it is to their nearest school. I think this amendment goes far beyond, the concerns of the Members of the House and the concerns of the American people with this issue.

☐ 1730

It is a sensitive area. Certainly we ought to be sensitive to the remedies. But, let us also be sensitive to the problem of discrimination and the desperate effort to try and find answers. Let us not inhibit that effort through this kind of legislation.

Mrs. FENWICK. Would the gentleman yield?

Mr. PANETTA. I yield to the gentlewoman.

Mrs FENWICK. I would like to associate myself with the gentleman's remarks. I do not think any parent of any race really likes busing. But, it has become a symbol of the intention of this country to protect all of our children and give them an equal education. And when the courts find deliberate discrimination has been practiced, we must have such a recourse. And I hope very much this amendment will be defeated.

Mr. PANETTA. I thank the gentlewoman and I yield back the balance of lead agency.

Now, I submit that, therefore, by amending the General Education Provisions Act, which has nothing to do with the structure of the present Office of Education or the proposed Department of Education, this bill goes beyond what the chairman claimed was merely the structure of the new Department of Education. This is a direct amendment or indirect amendment to the General Education Provisions Act, and, therefore, I think the bill goes well beyond the original structure; and the point of order is not well taken.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Might I speak further upon the point of order just briefly to say to my distinguished friend from Illinois, if he thinks a point of order lies in some other part of this legislation, at the appropriate time I wish he would offer it. I would be pleased to have it ruled on.

I have no objection to his making such a point of order.

I am talking about this one. If the gentleman is for it, let us talk about this one. This one is a violation. No question about it.

The CHAIRMAN. The Chair is prepared to rule.

Section 103, title I, mandates how existing education laws are to be construed in several diverse respects. Section 103 does contain certain limitations upon the statutory constructions of several authorities of the Secretary to control education programs.

in opposition to the amendment.

Mr. Chairman, my colleagues, this is not a new issue that has been debated on the floor of the House. I just want to make a few points in dealing with this whole area of remedies. Where there has been deliberate discrimination, there must be solutions. We ought not to forget the fact that busing did not simply fall out of the sky, that indeed, it really takes place in school systems that have been found by a court of law to have discriminated. Where there is discrimination there has to be a remedy.

This has been the whole problem in dealing with this issue.

What type of remedy do we have where children are segregated by virtue of their race?

The courts have developed remedies that involved busing, but there are other remedies that have also been implemented. We do not have a right in this country unless there is a remedy, and the problem is what kind of remedy do we bring to bear in school systems that have been deliberately segregated?

Busing is one of those remedies that has been applied. It has not always been successful. It has not always been effective. There are problems with implementing busing in many districts, but it has also worked very well in school systems that have prepared the community and that have done it in a responsible way.

What this amendment will do is prohibit any kind of transportation whatsoever in order to implement a desegregation plan. We have normally been concerned about the neighborhood school, my time.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MITCHELL of Maryland asked and was given permission to revise and extend his remarks.)

Mr. MITCHELL of Maryland. It is my understanding the House had intended to adjourn by 5:30. I shall be very brief. I do not know whether 5:30 is still the plan or what it is at this time.

I rise to obviously oppose this amendment. I have opposed it each time it has been offered. I take the time to merely state to my colleagues, that I wish you had been on the floor of the House this morning at 9:15. I wish you had been here. At 9:15 this morning we had the pleasure of having the parents of our Capitol Hill pages who were graduating and also the Pages themselves, who, by the way, are completely mixed. You have seen the pages, black and white working here together, both boys and girls. And when I spoke to the pages and their parents, I said this is what I think America is all about, somehow or another bringing people together, bringing them together so that they can work in harmony and in understanding. It was a beautiful experience.

That is why it is so bitter for me to sit here this evening and hear this amendment being offered, because I do not know exactly what the gentleman's intentions are. But there is no doubt in my mind that the effect will be to create further division in America, and God knows we do not want any more of that. We are already divided enough.

Why keep fanning the flames by this kind of amendment on busing to achieve school desegregation. That is not the issue concerning me.

The issue is whether or not the Federal Government, the State governments and city governments are going to put enough money into those still separate black schools so that they will be so good, and so excellent in terms of teacher-pupil ratio, in terms of curriculum, and in terms of everything else. They will be so excellent that white children will be begging to be bused into the black schools in the urban cities. That is what I would like to see happen.

But, it is not going to happen, and until that does happen I think we must have busing as a remedy. I urge that this awfully—I was starting to say vicious, but I do not want to say that—this amendment that has the potential for further dividing this Nation and fanning the flames should be defeated.

Mr. Chairman, I yield back the remainder of my time.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I will not take 5 minutes but, you know, the unspoken word is "coercion." Coercion, that is the problem with busing as interpreted and as imposed by the courts. There is no busing law that has ever come out of this body or the other body but some judge, Federal judge in response to a study by a Professor Coleman from Chicago, who has since repudiated his own findings,

[Roll No. 205]

AYES—227

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boner
Bonior
Bowen
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Corcoran
Cotter
Coughlin
Courter
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Pashayan
Patten
Patterson
Paul
Petri
Pickle
Pritchard
Pursell
Quayle
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Royer
Runnels
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikva
Miller, Calif.
Mitchell, Md.
Moffett
Mollohan
Nolan
Oberstar
Obey
Ottinger
Panetta
Pease
Pepper
Perkins
Peyser
Preyer
Quillen
Rahall
Railsback
Rangel
Reuss
Richmond
Rose
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Solarz
St Germain
Stack
Staggers
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Whitley
Williams, Mont.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—72

Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Aspin
Badham
Beilenson
Bolling
Bouquard
Breaux
Brown, Calif.
Byron
Conyers
Corman
Crane, Philip
D'Amours
Danielson
Davis, S.C.
de la Garza
Diggs
Dingell
Dornan
Dougherty
Fary
Flood
Ford, Tenn.
Forsythe
Frenzel
Fuqua
Goldwater
Goodling
Hagedorn
Hammerschmidt
Harsha
Heftel
Hughes
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kelly
Lloyd
Lott
McKay
Marks
Moorhead, Pa.
Murphy, N.Y.
Price
Rhodes
Rodino
Rostenkowski
Rudd
Russo
Schulze
Shuster
Stark
Stockman
Treen
Vander Jagt
Weiss
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wyatt
Wydler
Young, Mo.
Zeferetti

decided that unless you forcibly conscript schoolchildren and bus them, and homogenize them, the black student is not getting a good education unless he sits next to the white student. No, that is coercion and conscription and it is nonsense.

We have got in Chicago, and I do not represent Chicago, 20 percent white, 80 percent minority and some bureaucrat is saying unless you come up with a plan that I approve, that HEW approves, you are not going to get any of your tax money back.

Busing is great if people want to do it, if they do it with the consent of the governed. But, it is being imposed not by the laws passed by this body, but by bureaucrats and by a court, which is out of date, because the father of busing has repudiated it. It does not work, it is not successful, it is counterproductive, it polarizes people, and we ought to pass the laws here and support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MITCHELL of Maryland. Mr. Chairman, I demand a division.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote. A recorded vote takes priority.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 135, not voting 72, as follows:

Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Downey
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Fish
Fithian
Flippo
Florio
Ford, Mich.
Fountain
Frost
Gaydos

Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lujan
Luken
Lungren
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mattox
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moore
Moorhead,
  Calif.
Mottl

Spellman
Spence
Stangeland
Stanton
Steed
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vanik
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Wilson, Tex.
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—135

Akaka
Albosta
Alexander
Ashley
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Bereuter
Bingham
Boggs
Boland
Bonker
Brademas
Brooks
Buchanan
Burlison
Burton, John
Burton, Phillip

Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conable
Conte
Daschle
Dellums
Derrick
Dicks
Dixon
Dodd
Duncan, Oreg.
Edgar
Edwards, Calif.
Erdahl
Ertel
Fascell
Fazio

Fenwick
Findley
Fisher
Foley
Fowler
Garcia
Gilman
Gonzalez
Gore
Gray
Green
Harkin
Harris
Hawkins
Holtzman
Horton
Howard
Johnson, Colo.
Kastenmeier
Kildee

Drinan
Eckhardt

Mineta
Montgomery

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Johnson of California against.

Mr. Fary for, with Mr. Stark against.

Mr. Montgomery for, with Mr. Drinan against.

Mr. Dingell for, with Mr. Conyers against.

Mr. Dornan for, with Mr. Diggs against.

Mr. Philip M. Crane for, with Mr. Weiss against.

Mr. Shuster for, with Mr. Eckhardt against.

Mr. Schulze for, with Mr. Flood against.

Mr. MARRIOTT and Mr. JEFFORDS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. GOLDWATER. Mr. Chairman, for the past year a number of educators have taken the opportunity to let me know of their interest in creating a new Cabinet-level department to administer the more than 260 Federal aid-to-education programs. Why, I ask them? What can a new appendage of this bureaucracy in Washington do to improve the learning experiences of students, in the case of my congressional district, as far as 3,000 miles away? As it is, the cost of the Federal role in education has mushroomed and it seems as though serious problems of one kind or another plague our school systems continuously.

If this proposal becomes law a new organization will be entrenched in the

Federal maze of regulatory authority. The $14 billion it will take to run this outfit promises no brighter prospect for managing our schools than a vigorous shakeup of the existing structure at HEW would do. What can a staff of 16,000 bureaucrats—that is the number of employees slated to call the shots for this new Department—what can they do to help a second grader in my district with a reading problem? How will a youngster with a learning disability be any better off with this new Federal Department? This is where the real crisis in education is—in the classroom. The States and localities are best able to make decisions affecting pupils in our public schools. I am not convinced that an expanded Federal role for financing education programs will make any positive contribution to the important matter of teaching students the essential skills they need to have.

The more thought I give to this proposal the more irate I become. Surely the originators of this idea foresaw the explosion of redtape and despised paperwork which will burden school administrators. There is the danger that this institution will forge a national policy for education, something which would be oblivious to the local concerns of every school district. The quality of education stands to gain nothing when this new Department will become, as one newspaper editorial put it, "a creature of its clientele." It is no secret that the Carter administration got behind this bill because the President received the support of a powerful education lobby in the 1976 election campaign. For one group to exert its influence by dominating a Government agency would make a mockery of a public responsibility too sacred to be marred by petty politics.

So when I am approached by teachers and administrators on this measure I listen to their arguments that taking the "E" out of HEW will help them have a stronger voice in taking control of their schools. I tell them that a little reform within HEW itself would be a better way to get a handle on the mammoth role our Federal Government already plays in the educational process.

Then I ask them just how certain they are that they will be better off with a U.S. Department of Education. Usually I get a shrug of the shoulder.

Mr. Chairman, there is an awful lot which needs to be done in making our schools better for its students. I think the less involved the Federal Government is in making these changes, the better we will be. This bill is a move in the wrong direction for public education in this country. I urge its defeat. ●

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, had come to no resolution thereon.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, TUESDAY, JUNE 12, 1979 *No. 76*

House of Representatives

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object

Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman

Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord

Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen

Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.

Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica

Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke

to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make a statement. We intend to stay, or hope to stay, until we finish this bill this evening, regardless of the time.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 19, not voting 53, as follows:

[Roll No. 209]

YEAS—362

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Taylor
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth

Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Fla.
Zablocki

NAYS—19

Bauman
Broomfield
Brown, Ohio
Danielson
Dickinson
Gradison
Hansen
Hinson
Jeffries
Kindness
Mattox
Michel
Quayle
Ritter
Rousselot
Solomon
Symms
Thomas
Young, Alaska

NOT VOTING—53

Addabbo
Ambro
Anderson, Ill.
Applegate
Ashley
Atkinson
Badham
Bolling
Bouquard
Breaux
Burton, John
Conyers
Davis, S.C.
Deckard
Diggs
Dingell
Eckhardt
Evans, Ga.
Fary
Flood
Forsythe
Fuqua
Gibbons
Goldwater
Hagedorn
Hammerschmidt
Harsha
Holtzman
Johnson, Calif.
Kogovsek
Lloyd
McCloskey
McDonald
Mathis
Mineta
Mitchell, Md.
Price
Rodino
Rosenthal
Rudd
Runnels
Santini
Schulze
Stockman
Treen
Udall
White
Williams, Ohio
Wilson, Bob
Wydler
Yates
Young, Mo.
Zeferetti

☐ 1220

Mr. LEWIS changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

In order to be germane, an amendment must have the same fundamental purpose as the bill under consideration. The purpose of H.R. 2444 deals only with the organizational structure of a new Department of Education.

The amendment raises a controversial subject of public policy and gets into substantive issues. Thus, the fundamental purpose of the amendment is not germane to the fundamental purpose of the bill.

I know yesterday there was a ruling of the chair with regard to one of the other amendments that were offered that made reference to the inclusion in this bill of section 103, namely prohibition against Federal control of education. That provision is the restatement of the present law which prohibits the Federal Government from controlling or getting into the control of local education. In other words, that is a restatement of what the present law is. It was put in this bill so it would make certain to those who were involved with the Department of Education in the bill that they would know that it is not the intention of the Federal Government to direct or control education at the local level.

This amendment goes into substantive issues which are not involved in this committee. We have had no hearings on this subject; we have had no opportunity to discuss it; we have had no testimony on it. Whether I agree with the position of the gentleman is something else. I tend to agree with the gentleman's personal views. However, it is not something

To say that this is not a subject matter which has not previously been considered is to say that in stating this particular finding, these kinds of problems were not considered.

I think it simply adds clarification to the definition and finding which is in the bill at the present time.

The CHAIRMAN. The Chair is prepared to rule.

The Chair would like to remind the Member that title I of H.R. 2444 in section 102 contains a diverse statement of purposes and findings applicable to the newly created Department of Education. These findings, while not affecting or creating new authorities which are to be transferred to the Department, are extremely diverse in character and emphasize several aspects of the question of the extent of Federal Government involvement in educational programs. Since it is difficult to group into one class all of the stated purposes and findings for the new Department, and since the pending amendment does not directly address new substantive authorities to be conferred upon or withheld from the Department, the Chair will rule that the amendment stating an additional finding relative to Federal educational policy is germane to title I of the bill.

The Chair would cite a relevant precedent contained in Cannon's precedents, volume VIII, section 3011, where, to a section embodying a declaration of policy and including a number of purposes, an amendment proposing to incorporate an

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 11, 1979, title I had been considered as having been read and open to amendment at any point.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 54, in line 21, strike out the ";", and insert the following: "and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex."

POINT OF ORDER

Mr. HORTON. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. HORTON. Mr. Chairman, I raise a point of order against this amendment, since it is on a subject that is different from that which is under consideration and, thus, it fails to meet the test that is imposed by rule 16, clause 7.

We are considering a reorganization statute, that is H.R. 2444, within the jurisdiction of the Committee on Government Operations. That committee has reported this bill.

The gentleman is introducing a new subject by way of his amendment which affects education programs. If such an amendment were introduced as a bill, it would not even be referred to the Committee on Government Operations. The amendment goes beyond the scope of the reorganization that is involved in the bill in the creation of a new Department. Somewhere we must draw the line as to what is germane in this bill. This in my judgment is not germane, it is not involved with the organization of this Department and therefore I urge that the amendment be ruled out of order.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. WALKER) desire to be heard on the point of order?

Mr. WALKER. Yes, Mr. Chairman, I desire to be heard on the point of order.

Mr. Chairman, first of all, I think that this raises the same questions that were raised yesterday when a similar point of order was taken against a subject matter of the same kind; therefore, I think it would fall into the same category as the subject matter of yesterday and is germane under the bill.

Second, I would say that it is germane in its own right. What I am simply doing in this particular amendment is further defining findings which are already stated under the findings and purposes section of this bill.

The present findings says:

There is a continuous need to insure equal access for all Americans to educational opportunities of high quality.

All this language does is expands upon that particular phraseology by saying that no individual should be denied such educational opportunites by rules, regulations, standards, guidelines, or orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex.

It simply defines material which is already stated in the bill.

additional purpose was held germane. There, the Chair emphasized that the declaration of policy section did not have any particular effect upon the bill, and that the section contained several diverse proposals.

Accordingly, the Chair overrules the point of order, and the gentleman from Pennsylvania is recognized for 5 minutes in support of his amendment.

Mr. WALKER. I thank the chairman.

Mr. Chairman, I think that this particular amendment is one of the more important that we will consider, because one of the great places where there has been too much Federal influence in local education has been in the area of the application of HEW of quota policies telling local school districts, telling higher education, telling schools all the way across the country, that they have to set certain quotas in order for certain people to qualify for certain programs. To me, that goes against the very nature of the society. We are a diverse people. We are a united people, and that unity depends upon not setting aside groups and individuals to receive special privileges, but to come together with true anti-discrimination policies.

This prior record of the Department of Health, Education, and Welfare, should give everyone fear that the same bureaucrats who were in the Department of Health, Education, and Welfare, will now be transferred to the Office of Education and will continue the same policies of having quota-based policies in their application to school districts.

Quotas are by definition discriminatory. You cannot set aside classes of people by law, by regulation, and not have discrimination.

Therefore, whenever we endorse quotas, we are, in fact, endorsing discrimination and we are denying equal access to education.

It is high time that we stopped denying equal access to education as a matter of Federal policy. To do so, we ought to endorse as part of the findings of this bill an antiquota approach.

It seems to me that this particular language and this particular approach is perfectly in keeping with what the Supreme Court told us in the Bakke decision last year; namely, that you do not use quotas to exclude people from educational programs.

□ 1230

The gentleman from Maryland, during the busing debate yesterday, I think, made clear the precise argument that I am arguing here today. He said at one point during that debate that "we are divided enough in our society, we don't need more division."

Any kind of a quota-based policy is divisive. It does cause division, it sets people apart, and it sets minorities apart from minorities.

Just recently it was brought to my attention that here in the District of Columbia they have proposed a new definition of a "minority" which excludes orientals and blacks born in Africa and certain other groups, and that leaves only blacks born in America and Hispanic-Americans and a few other groups.

With quota-based policies, we are now starting to divide up minorities, and

Mr. PANETTA. Mr. Chairman, I thank the gentleman.

Mr. WALKER. Mr. Chairman, I thank the gentleman from California (Mr. PANETTA).

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the amendment.

(Mr. GONZALEZ asked and was given permission to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most detrimental to the main purposes of equal opportunity of education to the most needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

Mr. WALKER. Mr. Chairman, I demand that the words be taken down.

The CHAIRMAN. The Clerk will report the words objected to

Mr. GONZALEZ. Mr. Chairman, I will be glad to repeat them. If the gentleman wishes me to repeat them, I can repeat them verbatim.

The CHAIRMAN. The Clerk will report the words.

Mr. ERLENBORN. Regular order, Mr. Chairman I believe under the rules, when a demand is made that the words of the gentleman be taken down, the gentleman is not to speak again until the ruling of

needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

The SPEAKER. The Chair is ready to rule.

The Chair, having read the references concerning deception and hyprocrisy, will state that there have been previous opinions by the Chair that there is nothing wrong with using the word, "deceptive," or the word, "hypocritical," in characterizing an amendment's effect but when a Member so characterizes the motivation of a Member in offering an amendment that is not in order.

Consequently, the words in the last sentence read by the Clerk are unparliamentary and without objection, the offensive words are stricken from the RECORD.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. WALKER. Reserving the right to object, Mr. Speaker——

The SPEAKER. Does the gentleman from Pennsylvania (Mr. WALKER) object to the decision of the Chair?

Mr. WALKER. No, Mr. Speaker, I do not object to the decision.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. BROOKS).

□ 1240

Mr. BROOKS. Mr. Speaker, I move that the gentleman from Texas (Mr. GONZALEZ) be allowed to proceed in order.

that kind of a quota-based policy is very, very tragic for this society to operate.

Mr. Chairman, I urge the adoption of this amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

May I ask, is the gentleman's amendment in any way intended to do away with affirmative action?

Mr. WALKER. Absolutely not. I am a proponent of the affirmative action programs. I think we can have affirmative action without relying on quotas, and in no way would the adoption of this language impact adversely on affirmative action programs which are not run with quota bases.

Mr. PANETTA. So to the extent we may have both goals and timetables, this is not intended to impact on that?

Mr. WALKER. No, the amendment would not impact on goals and timetables. The amendment uses the language, "any ratio, quota, or other numerical requirement related to race," and it does not touch goals and timetables whatsoever.

Mr. PANETTA. To that extent, then, it really follows the basic guidelines laid out by the Supreme Court in the Bakke decision?

Mr. WALKER. Precisely. I would say to the gentleman from California (Mr. PANETTA) that the language follows precisely with that of the Bakke decision. the Chair.

The CHAIRMAN. The gentleman is correct, and the Chair has made that point. The gentleman will be seated.

The Clerk read as follows:

> Mr. GONZALEZ. Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most serious in a detrimental way to the main purposes of equal opportunity of education to the most needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

The CHAIRMAN. The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, certain words used in debate were objected to and on request were taken down and read at the Clerk' desk, and he herewith reported the same to the House.

The SPEAKER. The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. GONZALEZ. Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most serious in a detrimental way to the main purposes of equal opportunity of education to the most

The motion was agreed to.

The SPEAKER. The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The CHAIRMAN. The gentleman from Texas (Mr. GONZALEZ) has the floor, and the gentleman will proceed in order.

Mr. GONZALEZ. Mr. Chairman, this mischievous amendment, disguised as an attempt to prohibit quotas is, in my opinion, a very insidious attempt to encrust into statute form a misinterpretation of the Bakke decision.

Now, the Bakke decision, unlike the remarks made in reference to that decision by the gentleman presenting the amendment, does not state that quotas, as such, are prohibited from consideration in an attempt on the part of educational authorities to provide opportunities that are otherwise denied because of societal quotas. The gentleman does not make reference to the fact that the reason we have had to have some attempt toward affirmative programs is because of the unjust traditional societal quotas that have mitigated against certain classes because of racial or ethnic and, in many cases, religious considerations.

This amendment, in reality, sanctifies quotas if they are the traditional discriminatory, prejudicial type that we have had to combat and continue to.

Now, even now, this is a vengeful blow at those trying to seek justice for true equal opportunity for higher education, and in fact, other forms of education, because it simply puts into law, or attempts to, one misguided interpretation of the Bakke decision.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. In just a minute.

Since the Bakke decision, in those areas where we have had resistance to the affirmative programs, such as they have existed, the record shows that we have had a drop in minority admissions to medical schools and law schools in excess of 10 percent, merely because those schools are doing the very thing, interpreting, in the light in which the sponsor of this amendment is attempting to interpret and force the amendment on this House.

Mr. Chairman, I will yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I understood, from the gentleman's comments in the well, that the gentleman equates affirmative action programs with quotas.

Mr. GONZALEZ. I do not.

Mr. ERLENBORN. My understanding of the Bakke decision is that the court rejected that and made a clear distinction between quotas and affirmative action. The court endorsed the use of affirmative action, as I would, but the court, in the Bakke decision, said that quotas that exclude people merely because of some status, such as race or national origin, were not constitutional, whereas affirmative action was constitutional. I would say that he may not be as sensitive to as other areas. In terms of what has happened, with the Bakke decision, I have had several cases in which young people who are Hispanic and black and who are qualified to enter into medical schools in the Northeast are now being refused. They are being refused because many of these educational institutions are now going in reverse. Because of Bakke, they feel that they do not have to give any consideration to students who are minorities. That is the unfortunate part of the type of dialog that is taking place on this floor.

I will say to the gentleman from Pennsylvania that, as a person who sponsored yesterday what I consider to be a very spiritual bill, in terms of right to prayer, despite my liberal record I voted with the gentleman on that legislation. I vote for it because I think it is right that a child should be permitted an option to understand what his or her spiritual life is all about. The fact is that what the gentleman is doing with this amendment is that he is going to the very core of the prayer bill which he introduced yesterday. Because if we want to be fair in life, we cannot be fair sometimes and not other times. We must be consistent. I assure the gentleman from Pennsylvania that, with what is taking place here in terms of this amendment to this bill, he is not doing any good to people who are trying to break themselves out of a cradle of poverty. You have to understand what poverty is all about and you have to understand what discrimination man may not be really interested in my point of view, but I have listened to the point of view of the gentleman from Pennsylvania (Mr. WALKER), and I can assure the gentleman that I have no problem in terms of the politics of what the gentleman may want to do for his constituents or what the gentleman thinks is politically right, but I do have problems when the gentleman takes the floor on a moral issue such as prayer, then the gentleman comes here on a political issue such as the Bakke decision. I believe it to be wrong. I think our country is not meant to be divided. We should try to bring people together.

An amendment like this divides. It does not unite.

I yield back the balance of my time.

● Mrs. COLLINS of Illinois. Mr. Chairman, I rise to speak against this amendment which would prohibit the proposed Department's ability to enforce education-related affirmative action efforts designed to achieve either race or sex-related hiring and admissions goals.

One issue that I have consistently monitored is Congress' action toward the goal of equal educational opportunity for all Americans. Through effective and efficient enforcement we can attain a higher degree of equal opportunity in this country.

The amendment before us would affect the policies and practices of recipients of Federal funds and Federal contractors. Clearly, the key words are "for purposes of compliance with any timetable, goal, ration, quota, or other numerical require-

1326

tutional. I think the gentleman should not confuse the two.

Mr. GONZALEZ. I am not. And the gentleman's conclusion as to what I believe is erroneous. I do not equate either. But neither is the gentleman's interpretation the decisive consensus of interpretation of that opinion.

The amendment suports one view of the Bakke decision but it distorts the majority view.

It is an undisputed fact that decades of legally sanctioned discrimination created disadvantaged classes in this country. There is no way to overcome the effects of that discrimination without resort to vigorous affirmative action. But this amendment would discourage the very action that is needed and would perpetrate the effects of discrimination, even though that discrimination is now illegal. We cannot close our eyes to history nor can we close them to present reality. Present reality is that affirmative action is the only answer to overcome the burdens created by the dead hand of discrimination. This amendment would discourage the very kind of action that is needed in the very places where it is needed most. In the name of equality it would weaken and distort the means required to achieve equality.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I like my colleague, the gentleman from Texas (Mr. GONZALEZ), was not going to speak on this amendment. I think the sponsor of this legislation—there obviously are some areas is all about. If you do not understand, then it becomes a virtual impossibility to know the other side of the story. And that is the saddest part of what is happening here with your unfortunate amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I am shocked to hear that. I think the gentleman said there are medical schools which are now refusing entrance to people of Hispanic backgrounds because of the fact that they are Hispanic. Is that correct?

Mr. GARCIA. Yes.

Mr. ROUSSELOT. Where are those institutions?

Mr. GARCIA. At this particular moment I would not place that on the record, but I can show the gentleman a list.

Mr. ROUSSELOT. Mr. Chairman, the gentleman is the one who brought it up, and I think that is shocking to know that that is occurring. And that is directly related to the Bakke decision?

Mr. GARCIA. Yes.

Mr. ROUSSELOT. That is shocking. But the gentleman is willing to tell us which institutions?

Mr. GARCIA. I will be willing to tell the gentleman in private.

Mr. ROUSSELOT. In private.

Mr. GARCIA. Yes.

Mr. ROUSSELOT. I think we ought to know about that, and I appreciate my colleague's discussing it.

□ 1250

Mr. GARCIA. Mr. Chairman, coming from the State of New York, the gentlement related to race, creed, color, national origin or sex."

Let me point out that this amendment would have a sweeping effect, because it applies not just to "quotas" but to a "timetable," "goal," "ratio," or "other numerical requirement." It affects not just colleges and universities but any "individual or entity" and it relates to employment practices as well as to student admissions.

Goals are not rigid or arbitrary quotas. When an educational institution agrees to correct a discriminatory practice by setting a goal, the institution pledges good faith efforts to reach the target over a reasonable period of time. So long as the institution takes effective measures to achieve the goal, it will not be out of compliance with the civil rights laws. Under a remedial plan that provides for goals and timetables, there is no requirement that an institution hire or admit unqualified individuals.

Today, the House faces an important choice: It will decide whether to support the Office of Civil Rights as it came out of committee with a well-defined ability to manage its compliance programs efficiently with a minimum of bureaucratic delay. However, if this amendment is added to H.R. 2444—barring the new department from requiring any ratio, quota or other numerical requirement related to race, color, national origin, or sex—it would severely and permanently cripple the agency from carrying out its mandated antidiscrimination enforcement responsibility.

We can abandon the hope of any meaningful civil rights enforcement effort if the new department is prohibited from requiring remedial action by recipients of Federal funds who are in violation of laws preventing discrimination on the basis of race, sex, or handicap. Now more than ever before, the Nation's Federal apparatus must be fully applied against the widespread practices of racism and sexism. This amendment is a threat to the integrity of this country's educational system and to our school children and, therefore, must be rejected summarily ●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1300

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further pro-

Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Marlenee
Marriott
Martin
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Obey
Panetta
Pashayan
Paul
Petri
Pickle
Preyer
Robinson
Rostenkowski
Roth
Rousselot
Royer
Russo
Satterfield
Sawyer
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff

NOT VOTING—31

Addabbo
Anderson, Ill.
Ashley
Badham
Bolling
Cavanaugh
Conyers
Diggs
Dingell
Fary
Flood
Florio
Forsythe
Frost
Giaimo
Goldwater
Hagedorn
Johnson, Calif.
Lloyd
Price
Railsback
Rose
Rudd
Runnels
Scheuer
Schulze
Staggers
Treen
Wilson, Bob
Young, Mo.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Johnson of California against.

Mr. Runnels for, with Mr. Conyers against.

Mr. Staggers for, with Mr. Flood against.

□ 1320

Mr. DICKS changed his vote from "no" to "aye."

Mr. BOLAND changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 57, line 5, after "selection" insert "or content"

Mr. ASHBROOK. Mr. Chairman, section 103 purports to be a "Prohibition Against Federal Control of Education." It appears to be sweeping in its coverage—including not only the Secretary of Education but "any other agency of the executive branch of the Federal Governceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 277, noes 126, not voting 31, as follows:

[Roll No. 210]

AYES—277

Abdnor
Alexander
Ambro
Andrews, N.C.
Andrews,
N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Findley
Fish
Fithian
Flippo
Foley
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons

Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Pritchard
Pursell
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—126

Akaka
Albosta
Anderson,
Calif.
Bailey
Baldus
Barnes
Bedell
Beilenson
Bingham
Boland
Bonior
Brademas
Brooks
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Collins, Ill.
Corman
Cotter
Danielson
Daschle
Dellums
Derrick
Dixon
Dodd
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Fascell
Fazio
Fenwick
Fisher
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gilman
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Hawkins
Heftel
Holland
Hollenbeck
Holtzman
Howard
Jeffords
Johnson, Colo.
Kastenmeier
Kildee
Kogovsek
Lehman
Leland
Lowry
Lundine
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Murphy, Ill.
Murtha
Myers, Pa.
Nolan
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rosenthal
Roybal
Sabo
Santini
Schroeder
Sebelius
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
St Germain
Stack
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Vanik
Volkmer
Walgren
Weiss
Wilson, C. H.
Wirth
Wolpe
Yates
Zablocki

ment." The prohibition is to the effect that no provision of law relating to a program adminstered by these officials or their agencies shall be construed to authorize them to exercise any of the enumerated controls over education.

The last phrase of the section, however, would have vitiated the whole prohibition. It read "except to the extent specifically authorized by law." In short, any "direction, supervision, or control" over education which is "specifically authorized by law" is permitted. Thankfully, the House saw fit to revise part of this section during yesterdays consideration of the bill in accepting my amendment. However, other portions of section 103 still need amendment.

What did the drafters of this section have in mind? Why should the Federal Government ever exercise "direction, supervision, or control over the curriculum, program of instruction, administration, or personnel" of our schools and colleges? Is not that constitutionally the function of States and local boards of education, or of the trustees of private institutions? What laws now in effect would be invoked to authorize such Federal control, and for what purposes? We do not know.

It may be that the authors of this section drafted it so sweepingly that they included education institutions run by the Federal Government itself. If that is the case, and such institutions need to be exempted from this prohibition, it would be a simple matter to have done so. No Federal law should authorize, or be construed to authorize, Federal control of functions constitutionally and historically left to others. As the so-called prohibition stood, before my amendment which we adopted yesterday it did not prohibit Federal control of education—it specifically authorized it.

This amendment would clarify the phrase relating to "the selection of library resources, textbooks, or other instructional materials" by specifically removing the content of books and materials from Federal control or scrutiny.

The danger of censorship of library materials by a Department of Education is not remote or farfetched. On May 4, in volume 44, No. 88 of the Federal Register, at pages 26325 and 26326, in the proposed rules for the HEW Education Division General Administrative Regulations, we find a subparagraph (a) under Section 100a.620. "General conditions on publication," entitled "Content of materials." Subparagraph (a) concedes that an HEW grantee "may decide the format and content of project materials that it publishes or arranges to have published." But it goes on to say that the grantee shall "avoid race stereotype or sex bias in project materials."

This proposed rule has raised great concern in library and publishing circles which have become aware of it, not because educators, librarians, or publishers are bent upon injecting "race stereotype or sex bias" in materials they use, but because they rightly fear and reject Federal censorship, and because current law clearly prohibits it. So the concern I am expressing is not without foundation.

Current law flatly states that no provision of any HEW education law shall

Mr. HORTON. I have no objection to the suggested amendment and agree to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to title I?

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

(Mr. BENNETT asked and was given permission to revise and extend his remarks.)

Mr. BENNETT. Mr. Chairman, I rise in strong opposition to H.R. 2444, legislation to create a separate Cabinet-level Department of Education. The creation of such a department is not warranted and is another example of the unnecessary and expensive expansion of government. It is also questionable from a Constitutional point of view.

Article X in the Bill of Rights of our Constitution specifically says that powers not granted to the Federal Government under the Constitution are left with the States or with the people. That was done for a very good purpose because they feared the extension of centralized Government even then. Today, we have even more reason to fear big government because even with constitutional restraints centralized Government has ballooned in this country.

This legislation is not merely a rearrangement of existing programs, but the creation of yet another Federal department with its personnel in the thousands for any such Department now or in the future, I can readily visualize one of the first functions of the new Department of Education would be to have a planning staff to fill the vacant spaces in the Department, create new bureaus and new functions, and set out to propagandize the American public with press releases and other methods of information, explaining to the American public why they should request these things from the Federal Government.

I very sincerely urge my colleagues to oppose this legislation as being in the wrong direction of centralized national government; and too costly at a time when the Federal Government is dangerously in the red.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 57, after line 7 insert new section:

PROHIBITION AGAINST ABORTION EDUCATIONAL EXPENDITURE

SEC. 104. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counseling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85-864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 89-10), as amended; the High-

"be construed to authorize any department, agency, officer, or employee of the United States" to exercise any control over our schools and colleges or libraries, or over the selection of library resources, textbooks, or other printed materials used by them. This amendment will add protection against those who would become involved in textbook context.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I agree with the statement of my distinguished friend. The amendment is quite acceptable. This is a matter of semantics which does not in any way distort the bill. I think the amendment is perfectly appropriate.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have no objection to the amendment but I do think the gentleman has left out the word, "of." On page 57, line 5, the gentleman should say, "after selection of," insert "or content." Is that not correct?

Mr. ASHBROOK. The gentleman from New York is quite correct, Mr. Chairman.

Mr. HORTON. Mr. Chairman, perhaps the amendment should be amended.

Mr. ASHBROOK. Mr. Chairman, the language in the amendment should read, "over the selection or content of library resources." Putting the words, "or content," after "selection" would make it read correctly.

and its budget in the billions. And, as with any new bureaucratic entity, this proposed department cannot help but be inflated in staff, payroll, and programs within a short period of time.

A Federal Department of Education would tend to foster a tendency toward centralization in curriculum content and weaken local control over what our children are taught, and how. This, of course is the very sort of thing that the people in this country are today standing up against. The American people want economy and efficiency in Government; they want less centralization of Government in Washington; less of a paternalistic government that takes on more and more of the authority and responsibility which our forefathers who formed the Constitution tried to leave to the States and local communities where processes would be more democratically arrived at.

My chief objection to this legislation is that the establishment of this Department would offer an implied promise to the people of this country that the Federal Government would do things which the Federal Government is not financially able to do.

If this legislation is accepted it will prove to be very expensive; expensive from all standpoints—and, come at a time when the very last thing the Federal Government should be doing is embarking on another big Government scheme to spend dollars that it doesn't have to spend. And, of course, this goes hand in glove with the question of increased bureaucracy.

Despite the inability to achieve the high objectives which might be outlined

er Education Act of 1965 (P.L. 89-329), as amended; the Adult Education Act (P.L. 89-750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute.

POINT OF ORDER

Mr. BROOKS. Mr. Chairman, I make a point of order against the amendment under rule 16, clause VII.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROOKS. Mr. Chairman, I would say it requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not and I would like to speak on it if I might.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BROOKS. Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved. "except as explicitly provided by statute." It just does not eliminate a flaw in this amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute.

The last phrase of this amendment appears to be a very artfully drawn one but, in fact, is meaningless and should not be used as a vehicle to gain consideration of a matter on the floor that is otherwise not in order, one that makes a mockery of the House rules on germaneness.

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The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) conclude the point of order?

Mr. ASHBROOK. Absolutely not, Mr. Chairman.

I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the provisions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational programs that are now scattered among many departments and agencies.

We expect through the consolidation and the coordination of the existing educational programs an elimination of duplicative personnel systems and staff supported activities of the present systems. Stemming from this expectation, we have mandated a reduction of personnel positions by 450.

Mr. BUCHANAN. What, if any, provision has been made to curb an unbridled growth of the Department in the future, Mr. Chairman?

Mr. BROOKS. Well, in an effort to inhibit an expansion feared by many after witnessing the growth of some other Federal departments, we have limited the number of personnel positions that may be added within the Department each year to 50. Anything in addition to 50 would have to be done by statutory authority.

Mr. BUCHANAN. An additional fear which seems to trouble a number of my constituents is that such a creation, that is, of a separate Department of Education, would lead to an expansion of the Federal role in education resulting in Federal control of education.

Mr. BROOKS. The firm national tradition of State and local control over education will not be impaired in any way by this reorganization.

Section 103 contains a clear prohibition on Federal direction, supervision or control of local educational programs.

The Federal role is limited and specific. It is to promote equal access to qualprecisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted, under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November of 1971 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the past days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill.

The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist cational policies.

For the reasons stated, the Chair sustains the point of order.

Are there additional amendments to title I?

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BUCHANAN asked and was given permission to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Chairman, a number of my constituents have written me expressing various concerns and raising certain questions about the creation of a Department of Education.

I therefore would like to ask the distinguished chairman of the committee, as I promised some of my constituents I would do, some questions concerning it.

Mr. Chairman, there has been a great deal of criticism and fear over the creation of another proliferating Federal bureaucracy and the example is cited of of the Department of Energy and the growth that has occurred since its creation in expenditure and size.

How is this legislation designed to meet the problem of bureaucratic growth?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, section 403 reflects the strong concern of the committee over the possibility of an uncontrollable expansion of another Federal bureaucracy and the desire of the committee to inhibit such an expansion.

One of the major reasons for the new department is to reduce administrative costs and waste by streamlining the bureaucracy, consolidating programs ity educational opportunities and support the States, the localities, private and public institutions, in carrying out their responsibilities for education.

Mr. BUCHANAN. I thank the Chairman for his answers to these questions.

I must say, one of the really regrettable things that happen sometimes in our political process is that misinformation creates fears that are unfounded. As well as I understand this legislation, we are simply taking out education functions from various places and putting them in one new department, not to increase the power of the Federal Goverment or its control over education, only to find a better arrangement for serving the national priority of education and fulfilling the Federal role in that priority; is that correct, Mr. Chairman?

Mr. BROOKS. The gentleman states it very well.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes, certainly.

Mr. GOODLING. Mr. Chairman, I am assuming that the gentleman understands we are pulling out all things that belond in education and are putting them into one department. Then we are only going to have one committee in the House in order to oversee those functions. The gentleman does believe that, does he not?

Mr. BUCHANAN. I have great faith in that one committee, I will say to my distinguished friend. And one of the reasons I have such faith is that because the distinguished gentleman is a part of that committee, and as long as the gentleman from Pennsylvania with his fine background in education and long record of leadership in education is serving as my leader on the Subcommittee on Elementary, Secondary and Vocational Education, and as a leader of the whole committee on our side of the aisle, I feel really good about where we are vesting our authority.

Mr. GOODLING. If the gentleman feels that good about my leadership, then I certainly would suggest that the gentleman does not swallow anything about what the gentleman has just heard about what this Department is or is not going to become.

Mr. BUCHANAN. Well, I will say to my friend, and I may have to say some of it at a later time, that I have looked at the questions. I have looked at the fears that have been raised; but there are certain questions I have about the vast giant jungle of the Department of Health, Education, and Welfare, in which many of these functions now reside.

I do not believe this new Department will have greater powers than HEW already has. I do believe that with its concentration of purpose and of function that education can fare better as that national priority that my friend knows is a priority and I feel very strongly is a priority and can be better served by having education stand on its own feet in its own Department.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. BUCHANAN) has expired.

(At the request of Mr. GOODLING, and by unanimous consent, Mr. BUCHANAN was allowed to proceed for 3 additional

If we do not provide support from here for education, we will not adequately meet this high priority nor do our best for our most precious resources in this country, our human resources.

If there is going to be a Federal role in education, I do not want to see continue to happen what has happened year after year since I have served in this Congress, and that is that we have all the budget cutters, OMB, the Budget Committees, the Appropriations Committees, and all of us in the Committee of the Whole, who like to cut the HEW budget. That is one of our favorite places to reach out to try to slash what we may consider unnecessary spending.

Education becomes a disproportionate and often unintended victim, of 10, 5, or 2 percent across-the-board cuts in HEW because most of the budget items in the Department of Health, Education, and Welfare are uncontrollable items of spending—entitlement programs like social security. So if we have a percentage cut, we end up with education taking a disproportionate share of that burden.

If we want to cut Federal aid to education, I say we should do so by facing that issue on its own merits, but it seems to me that if we are going to do an adequate job in our Federal role on behalf of Federal support for education, the least we can demand is that the program should stand on its own feet and be voted on its merits, which is not the present case.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. BUCHANAN) has expired.

ernments do the job. But I do not know how the Department of Education is going to get those dollars back and achieve this effort. Let us take that money, if we really want to do something for youngsters, and send it back and tell them to investigate the problem of the teacher-pupil ratio and reject this new Department.

Mr. BUCHANAN. Mr. Chairman, I agree with my friend, the gentleman from Pennsylvania (Mr. GOODLING) in everything except whether the creation of the Department of Education will help or hurt that effort.

I will join my friend in oversight activities to assure that there will be no Federal control in education. I see no increase in powers in this bill, and we must have Federal support for education.

Mr. Chairman, I thank the committee chairman for answering my question, and I invite my friend, the gentleman from Pennsylvania (Mr. GOODLING) to change his very fine mind on this subject.

The CHAIRMAN. If there are no further amendments to title I, the Clerk will designate title II.

Title II reads as follows:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the pro-minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. BUCHANAN. Certainly.

Mr. GOODLING. Mr. Chairman, the gentleman knows I was being facetious originally, because, of course, this is not becoming a Department of Education. We are not bringing all functions of education, all functions of educating a youngster under one roof, under one management. We are not going to have one committee making the determinations. We are going to have just one more added to all those we presently have. That is the only point I was making.

Mr. BUCHANAN. Well, I will say to the gentleman that the gentleman's committee that he serves on certainly will have substantial and continuing responsibilities as it does now, but let me speak to the problem with which we are confronted right now in education. When I came to this place, I was an opponent of Federal aid to education, because I did not want Federal control of education. Where Federal money goes, Federal controls tend to follow.

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Mr. Chairman, I opposed early efforts at Federal aid to education. But the fact is that the Federal Government is draining away the tax revenues through its income tax. We have seen the situation of people simply voting not to fund education at the State and local level because of the large share of their taxes that are being drawn away by Washington.

(On request of Mr. GOODLING, and by unanimous consent, Mr. BUCHANAN was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. BUCHANAN. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, the gentleman's point about getting Federal moneys back to local and State school districts and departments is very, very important, there is no question about that.

In my remarks yesterday I said that where we have been successful in Federal aid to education has been in NSEA and vocational ed, where in fact we send money back. But we do not send money back and say, "You do this" or "You do not do this, but you must do that." We say, "NSEA will help to educate certain people. You figure out the best way to do that."

On the other hand, where we have had Federal involvement in the teaching of reading with Federal dollars, we ended up with teaching reading without phonics. We have had poor spellers because of that.

When we got to the involvement of the Federal Government with Federal dollars in the teaching of mathematics, we ended up with modern math. We do not know yet whether that is good or bad, but the fact is that nobody knew how to handle it, so we had the mathematics problem.

Yes, I am all for getting those dollars back. I am for letting those dollars get back there to let the State and local governments, under the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

Sec. 202 (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs; and

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities. (d) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private post-secondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex-officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to insure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

Sec. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and

Sec. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

Sec. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

GENERAL COUNSEL

Sec. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

Sec. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Sec. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

Sec. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: On page 58, in line 12, strike out the word "five" and insert in its place "four".

Strike out all from line 20 of page 63 to line 2 of page 64, inclusive.

On page 64, in line 4, strike out "210" and insert in its place "209"; and

In line 8, strike out "211" and insert in its place "210"; and

In line 15, strike out "212" and insert in its place "211".

On page 67, in line 3, strike out "213" and insert in its place "212".

On page 99, in line 3, strike out "14" and insert in its place "13".

On page 100, in line 4, strike out "(5)" and

fense dependent school system is probably not well known by most people in the United States, including most Members of Congress. It is a system that has grown through usage since World War II. After World War II, when we found ourselves with our servicemen deployed in various places around the world, it was apparent that in time of peace these servicemen would not be content to take those assignments unless they could have their families with them, and so dependents were authorized to join these servicemen in Europe, Asia, and various other parts of the world.

After the children joined these servicemen and, later, servicewomen, it was obvious they would have to have school facilities, curricula, and so forth that was equal to what those young people would have had had they been residing in the United States.

Strangely, without any direct legislative authorization, the Department of Defense began this overseas dependents school system, under the oversight of the Committee on Education and Labor to some small extent but mainly of the Committee on Appropriations, through the Subcommittee on Defense. The system grew and in many ways prospered.

There have been some problems with this overseas dependents school system, and the General Accounting Office in 1973 or 1974 made some recommendations. As a result, the structure in the Department of Defense, which had been service-oriented, with one service, the Navy, having authority in the Atlantic,

A transfer would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This would require an excessive amount of time of officials in high reaches of both Departments and produce adverse effects on the attainment of goals.

Secondly, removing control and operation of the schools from the Department of Defense would have a negative impact on military personnel.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. The OMB memo goes on to spell out how military personnel would be adversely affected:

And, thirdly, there is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staffs. At least at the outset, there could be an irrespressible urge to observe, study and tinker with the programs of the schools.

I have observed since then—and some of my colleagues disagree with me—that there would be this possible urge of education personnel in the Department of Education, most of whom are people who came from education in the States, to decide what are the best books, the best curriculum, the best content of courses, and so forth, to make those decisions in the dependent school system, and then having professional educators here in Washington, where the greatest knowlinsert in its place "(4)".

On page 52, in the table of contents, strike out "Sec. 209. Functions relating to education of overseas military dependents." and renumber sections 210 through 213 as sections 209 through 212, respectively.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, these amendments relate to the Department of Defense dependent school system.

I first want to call the attention of my colleagues to the letter that is dated June 1 of this year that was sent to all Members and was signed by the gentleman from Illinois, Mr. Melvin Price, chairman of the Committee on Armed Services, the gentleman from New York, Mr. Joseph P. Addabbo, chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from California, Bob Wilson, the ranking minority member of the Committee on Armed Services, and the gentleman from Alabama, Jack Edwards, the ranking minority member of the Subcommittee on Defense of the Committee on Appropriations.

This letter addressed to all of our colleagues was sent in support of the amendment I am now offering.

Mr. Chairman, the Department of Defense the Air Force in the Pacific, and the Army in Europe, was changed. That structure was changed, and the Dependents School System was put directly in the Office of the Secretary of Defense rather than in one of the armed services.

As a result of legislation passed last year, we also have an underlying legislative authorization for the operation of these schools.

Mr. Chairman, when the administration was considering the development of the proposal for a Department of Education, they had many proposals as to different elements of education that could be brought from places outside the Office of Education and welded into the new Department of Education. The Office of Management and Budget, in making an assessment of some of these proposals addressing the proposal for transferring the dependents school system, made these observations:

☐ 1350

First, there were some potential advantages of transferring the dependent schools, but also disadvantages. Let me read from the Office of Management and Budget's own assessment of the disadvantages:

> Number one, problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result.

edge resides, of course, having made those decisions, then translate them, either subtly or not so subtly, into directives or encouragements to the rest of the schools in the United States to follow the course set by the new Department of Education in operating these schools.

It is interesting to note that, up until now, the Office of Education has had the authority to operate schools only in one instance, and that is in section 6, Impact Aid Schools. Those are the schools that are maintained on Defense bases in the continental United States and places like Puerto Rico. The Office of Education has specifically opted not to operate those schools but has, rather, delegated the authority to operate the schools to the Department of Defense. So there is the Office of Education itself consciously making the decision not to operate schools but, rather, to let the Department of Defense operate those schools.

The proposal before us now would transfer this school system, which, in terms of the number of children served, would be the 11th largest in the United States—about 130,000 children—which is widespread and diverse, around the world, and which, as the OMB memo spells out, would necessitate either recreation of support services or contracting them back to let DOD perform them anyhow.

I submit that this is not in the best interest of these children. We have a new system which has been very well received overseas. Just as recently as Easter I visited one of these schools in Japan; and it was reported to me that now, in getting direct appropriations for construction and maintenance of school facilities rather than having to work through the Armed Services, as before, competing with the Armed Services' needs, they are building the schools and obtaining the buses and the other support services needed in the past which sometimes have fallen short. Now it is a good school system, it is accredited by the same accrediting organization—the North Central Association—that accredits some of our schools here in the United States. It would be detrimental to the children in the system, it would be detrimental to the defense effort to destroy or at least diminish the military personnel's attachment to their assignment overseas. It would be detrimental in all ways to transfer this overseas dependent school system. It should stay with the Department of Defense.

Our colleagues who have performed the oversight in regard to this have joined with me in asking the Members to support this amendment to keep the dependent school system where it is. The only reason it is in this bill is to make it appear that there is a real organization effort underway. But it is not wise to tamper with this system just to make this appear to be a real reorganization.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. I just want to understand what the amendment does. This amendment is directed to the removal—— education in the Department of Defense schools?

Mr. ERLENBORN. The gentleman is correct.

Mr. HORTON. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, I urge the adoption of the amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendments.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Chairman, I have supported the transfer of DOD overseas schools to the Department of Education last year and this year in subcommittee and in full committee. I continue to do so for one basic reason: The Department of Defense's primary mission is not education; it is the defense of this country, military preparedness. Transferring these schools to an agency oriented to education will benefit overseas dependent students, their parents, and the entire military establishment. During the hearings on H.R. 2444, we heard the testimony of Navy Commander Michael Austin, speaking on behalf of the 26,000 members of the European Congress of Parents; Teachers and Students. Commander Austin wholeheartedly endorsed the transfer of overseas dependent schools into the Department of Education. He told our committee:

> We believe that our children deserve a better education than that which they are getting, that is, education must be relevant in terms of preparation for adult life, and that it must be compatible with the general resources from other Federal education programs.
>
> I know that one of the major objections to the inclusion of the Overseas Dependents' Schools program in the Department of Education is the fear that this may lead to increased Federal control of education. I do not believe that this concern is warranted. The Federal Government . . . already operates these schools.
>
> No serious objections to the transfer of the Overseas Dependents' Schools to the Department of Education have been raised by the Military Departments or by the military community—those who know best the needs of their children.
>
> We believe that the Department of Education is the most appropriate Federal agency to administer these schools, and I ask your support for the inclusion of the Department of Defense Schools in H.R. 2444.

I want to put one more quote in here. I quote from a letter from the Senator from Georgia, Sam Nunn, a distinguished member of the Senate Committee on Armed Services, in which he says:

> These schools are regular American public elementary and secondary schools serving the dependents of military personnel who are stationed abroad. Their purpose is to educate American children and is not integrally involved with the mission of the Department of Defense.
>
> Inclusion in the Department of Education will also facilitate the transition of these students, who are temporarily overseas and away from our nation, into our public school systems.
>
> The question we should be addressing is which Federal department is the most competent and best qualified to ensure that these American school children receive a sound and quality education. It would be a difficult

Mr. ERLENBORN. The transfer of the overseas school system.

Mr. HORTON. But this does not affect the transfer? Does the gentleman's amendment actually affect the transfer which is in title III?

Mr. ERLENBORN. This is in title II. It is germane to title II, in eliminating the creation of an office within the Department of Education that would have this jurisdiction.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Erlenborn) has again expired.

(On request of Mr. Horton and by unanimous consent, Mr. Erlenborn was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, it might help the gentleman to know that if this is adopted I have additional amendments to title III that affect the transfer itself. But if this amendment were adopted, it would do away with the structure created within the new Department of Education meant to manage the overseas school system. Then, of course, a conforming amendment would be adopted in title III to take the transfer out of the bill.

Mr. HORTON. But the gentleman chose not to offer amendments to be considered en bloc which would also amend title III, section 303, so as to transfer the Department of Defense education schools.

Mr. ERLENBORN. That would follow.

Mr. HORTON. What we are dealing with here in the gentleman's amendment is simply the establishment of the office that would oversee the function of educational process in the United States.

Commander Austin went on to tell us:

> The new Department of Education is certainly no panacea to immediately cure all of our ills. But we believe that the prognosis for survival there is much better than under the Department of Defense system.

I want to say that Grace Baisinger, head of the National PTA, sent me a letter dated June 8, 1979, and I quote from it:

> As president of the National PTA, and on behalf of American military parents abroad, I urge your support both of the DOD transfer and of the establishment of a Department of Education.

And she enclosed a letter from Dr. Ed Schulze, the President of the European PTSA. I quote from that letter:

> Our enthusiastic support of the Department of Education and inclusion of the DOD schools is based on a Sense of Convention resolution passed unanimously at the 1978 Convention. It will be in effect until the 1980 Convention.

☐ 1400

Now I would like to say that the Secretary of Defense, the Honorable Harold Brown, wrote a letter dated June 11, and I quote from it. It says:

> I am writing to ask you to oppose any amendment to delete the Overseas Dependents' Schools from this legislation.
>
> We believe that the Overseas Dependents' School program is more appropriately located in the Department of Education than in the Department of Defense, for several reasons.
>
> It will improve prospects for enhancing the quality of education services to locate the schools in a Department of Education . . .
>
> The schools would be better able to tap case to argue that the Department of Defense would ever come close to giving these students the priority, attention and focus which they will receive in the Department of Education . . .

The CHAIRMAN. The time of the gentleman from Texas (Mr. Brooks) has expired.

(At the request of Mr. Jones of North Carolina and by unanimous consent, Mr. Brooks was allowed to proceed for 1 additional minute.)

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I am going to join the gentleman in his remarks and call to the attention of the House that in my experience, the present system of educating our military dependents in Europe has been certainly to say the least, less desirable than it should be. I was there at one point in time in 1974 when the transition was made with the teacher corps, those leaving after the tour of duty and those who were coming in.

I could not help overhearing the enjoyment that they had had, the relaxation, how they had been to Switzerland 2 weekends and junkets one after the other.

I can only conclude at the present time—certainly it does not apply to all of them, but a great many of them go for the joy and the excitement and not for educational purposes.

I would conclude that any change would be for the better.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Brooks) has expired.

(At the request of Mr. Ford of Michigan and by unanimous consent, Mr. Brooks was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Michigan.

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. I was not going to speak on this, but I have served with the gentleman who offered this amendment for 15 years now in the Education and Labor Committee. During almost all of that time, we have continued oversight on the Defense Department's overseas schools, and I suspect that the gentleman and I have probably visited as many of these schools and talked to as many people in those schools as any two people in this House presently or in the past.

I also serve on the Post Office Committee where we have dealt over the years with some degree of success with the special status of the educational people who are, as a matter of fact, not treated like other civil service employees, because we recognize the difference in trying to provide education, as distinguished from supporting our principal defense mission.

Consistently over the 15 years of our oversight, our committee report has,

Mr. ERLENBORN. I thank the gentleman for yielding.

My colleague from Michigan made reference to reports that I signed, making personal reference to me. I would be pleased to see those reports and agree with them if I saw my signature on such reports. I am not going to say that is not true, but to my knowledge, I have never signed a report recommending the transfer to a Department of Education now or in the future.

If I did, it just proves that I will have to read much more carefully what the gentleman writes before I ascribe my name to it, because I was never aware of such a recommendation being made.

If the gentleman would continue to yield, I might just say that the condition that the gentleman from Michigan refers to where there is competition between money to extend or resurface a runway and money to build a school, that is the old situation.

Now, the Department of Defense schools have their own separate appropriation, and there is no such tension between the two.

Mr. McCLOSKEY. Mr. Chairman, I rise in support of this amendment, because it seems to me that when we take an existing school system under the jurisdiction of one Cabinet Department, the Department of Defense, and add a second Cabinet-level Department to negotiate with the Department of Defense the operation of those schools on defense bases overseas, that we inexorably make the situation of those schools less efficient than in the present situation as it exists in the Department of Defense. We are adding an additional layer of Government. If we do not adopt this amendment, we will be accepting a system of two agencies of Government accomplishing a task which should be accomplished by one.

For those reasons, Mr. Chairman, I hope this amendment will be accepted in the interest of good Government.

I might cite that the Armed Services Committee which has examined this matter has addressed our colleagues in a letter signed by the gentleman from California (Mr. Bob Wilson), the ranking Republican; the gentleman from Illinois (Mr. Price), the chairman of the Armed Services Committee; the gentleman from New York (Mr. Addabbo), chairman of the Subcommittee on Defense Appropriations; the gentleman from Alabama (Mr. Edwards), the ranking minority member of the Subcommittee on Defense Appropriations. Both from the subcommittee, the Appropriations Subcommittees, the ranking members and the chairman urge that this amendment be adopted, because they foresee the additional cost, the additional complexity that will result from assigning this to two Cabinet Departments.

□ 1410

Mr. FORD of Michigan. Would the gentleman yield?

Mr. McCLOSKEY. I am glad to yield to the gentleman from Michigan.

Mr. FORD of Michigan. If the Armed Services Committee has expressed all of this interest, how does it happen that the among other recommendations, recommended that some day the DOD schools ought to be placed under HEW or in a Department of Education where they would not have to vie for support with all of the other important priorities and emergency situations that confront our military commanders.

We have had military commanders tell us they have had to face angry parents who are concerned about the condition of the schools, the currency of the textbooks and all sorts of problems with respect to inadequacy of materials, and at the same time they have got their pilots complaining, because there are holes in the runway; and they have had to make a choice between whether they support the schools with the available money or whether they take care of the principal mission that we have them in a foreign country to perform. I have heard this story over and over through the years.

I might remind the gentleman also that last year when he urged the adoption in this House of the Defense Department Dependents' Education Act of 1978, thereby giving this school system statutory authority for the first time, it has always been a creature of the Appropriations Committee in the past. The gentleman urged this legislation on us for, among other reasons, the fact that he wanted the school system to become independent of the conflicting demands made on the military for their operation.

Mr. McCLOSKEY. Mr. Chairman, I rise in favor of the amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I would be glad to yield to the gentleman from Illinois.

ably increase the cost and the complexity of Government, because now for the task of providing books and teachers and schools for our overseas dependents, we have two Cabinet Departments engaged.

When the gentleman from North Carolina mentioned that it was his observation of overseas schools, there was junketing taking place, that people went overseas to enjoy the overseas assignment rather than to educate children, what indication is there that the Department of Education, the new Department, is going to be any different?

We are now going to have two sets of bureaucrats going overseas to inspect: the Defense Department, which has the responsibility for the base, and the Department of Education, which has the responsibility for the schools on that base.

Now those schools that I have observed in overseas locations are generally headquartered on a base. They use base transportation furnished by the Defense Department.

Under the new system, will the school buses for the Department of Education be buses furnished by the Department of Education, or will they, as in the past be part of the defense base's own transportation system? It is absurd. It seems ridiculous to me to have a school operate on a base with two chains of command, one operating a school and one operating the base.

There are going to be disputes. There is going to be duplication of auditing, duplication of transportation, and duplication of assets.

We pledged ourselves in this Congress to try to simplify and cut the cost of

school system has been in existence since 1945 and never had a statute creating or authorizing it? They depended entirely on the Appropriation Committee to keep it going on a year-to-year basis.

The gentleman from Illinois, Mr. ERLENBORN's bill did not come from the Armed Services Committee, but it came from the Education and Labor Committee and finally gave them statutory existence only 1 year ago. Where is all of this attention that the Defense Department has been paying to these schools if they were satisfied to let them operate in limbo all of these years?

Mr. McCLOSKEY. Let me respond to the gentleman. Does the gentleman feel that by adding a new Office of Education in Europe, that somehow the education in Europe is going to be better? There is not a Department of Education officially anywhere near Camp Pendleton in California now so far as I know. By setting up an Office of Education at Camp Pendleton is that somehow going to make education better at Camp Pendleton?

Mr. FORD of Michigan. The gentleman does not understand the operation of the DOD schools. I would be very much surprised if we had a DOD school at Camp Pendleton. Those schools are outside of the United States. You have a title VI impact aid school at Camp Pendleton.

Mr. McCLOSKEY. If the gentleman is referring to Camp Pendleton, Camp Pendleton is 400 square miles and does have a school.

Mr. FORD of Michigan. I would say to the gentleman he is supporting the wrong amendment. The gentleman ought to be taking his schools out of the department by working on impact aid. The gentleman has a title VI school at Camp Pendleton, not a DOD school.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

I will be very brief, Mr. Chairman. I support this amendment because of its righteousness and practicality.

I would like to point out that on the number of trips I have taken abroad I have made a specific point to inspect these schools. I will give you examples. The school at Guantanamo Base, Cuba, represents the finest spirit of what you would see in a local school, a neighborhood school. The life of that base, that isolated base, revolves around that school.

I visited our naval base in Bahrain. I sensed the same feeling, the same spirit. If we divorce the military from the school system we take away the real spirit that binds it.

Aside from the debate over which bureaucracy would do a better job, I suggest that these have truly been neighborhood schools. They are good schools. They have the loyalty of the parents, they have the appreciation of the students. I have found a very very dedicated corps of teachers at these schools and I strongly support the amendment.

Mr. FASCELL. Mr. Chairman, I rise to speak briefly in opposition to the amendment.

I will ignore the arguments of turf and the efforts to take three wisps of straw to build a scarecrow on this issue. It seems to me the principal matter of con-

Therefore, Mr. Chairman, I trust that the amendment would be defeated.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, it seems to me that one of the basic reasons, as I understand it, that we have been considering a Department of Education is to coordinate this function of the Federal Government. Indeed, the findings in the bill show there is a need for improved coordination of Federal education and related programs. Surely, the education of our children abroad is public education. One of the purposes of the Department is to enable the Federal Government to coordinate all of its education activities and facilities. The very reason for talking about a Department of Education is to recognize these particular facts, recognize these particular purposes.

It seems to me that no matter how one stands, for or against the Department of Education, Members ought to be entitled to vote for a Department of Education that, indeed, coordinates all educational policies. If we begin to slowly erode these various responsibilities, we will not have a clean vote on whether or not we should have a Department of Education in our system. It is for these reasons that I approve the amendment.

Mr. FASCELL. Mr. Chairman, let me add just one final comment which I think is worth mentioning, and that is this: At the present time the teachers who are teaching the children of Americans over-

proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 230, not voting 26, as follows:

[Roll No. 211]

AYES—178

Abdnor
Alexander
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Bafalis
Bailey
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Boland
Bowen
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Grassley
Green
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heckler
Hinson
Holt
Hopkins
Hubbard
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
O'Brien
Pashayan
Patten
Paul
Pepper
Peyser
Pursell
Quayle
Rahall
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rosenthal
Roth
Rousselot
Roybal
Royer
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby

1

1351

1344

cern ought to be the education of the children involved and the desires of the parents of those children and what is ultimately best. I think we also need to consider the teachers involved. It seems to me if you take the children and the teachers and put them into the mainstream of education, a first step which was taken by Education and Labor when they set up the separate division in DOD and took oversight of that matter, that this is the next logical step and we ought to pursue that step.

I cannot imagine there will be any difference with respect to the administrative responsibilities or problems either in terms of administration or logistics than now goes on. The reason for that, Mr. Chairman, is the parents are not going to stand for it. Their primary concern is the education of their children and they are supporting the move for inclusion of their schools under this Department of Education.

I certainly concur with them, and they certainly know what they are doing and how they feel about it. I assume that their ability to deal with the administrative problems will be just as capable as it has been up until now, regardless of what people might say who are opposed to this concept. I dare say that military commanders and local base commanders are not going to want any more headaches with respect to parents and children than they now have.

We recognize that there are people of good will and good commonsense who will have to acknowledge this program and recognize what the primary need is.

seas have done a good job in working their way politically, if you will, through the bureaucracy of DOD, which is, indeed, an extremely large bureaucracy. That office is headed by a gentleman who is very capable and who has to work under extremely difficult circumstances. But I think anybody will admit that to give teachers the opportunity to pursue their careers within a department which is totally dedicated to the pursuit of that career and the education of their wards, we can understand how it will improve the morale of people involved, because we are talking about their careers and their ability to instruct children.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1430

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further

Conable
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Ferraro
Flippo
Fountain
Frenzel
Gaydos
Giaimo
Gingrich
Ginn
Gradison

Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead,
Calif.
Murphy, Ill.

Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Taylor
Thomas
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitten
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—230

Akaka
Albosta
Ambro
Anderson,
Calif.
Andrews, N.C.
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham

Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay

Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dixon
Dodd
Dougherty
Downey

Drinan
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lowry
McCormack
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Perkins
Petri
Pickle
Reuss
Richmond
Rodino
Roe
Rose
Rostenkowski
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff

Amendment offered by Mr. Simon: Page 59, line 5, strike out "and"; on line 8, strike out the period and insert in lieu thereof "; and"; and after line 8 insert the following:

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

Mr. SIMON. Mr. Chairman, I believe this is a noncontroversial amendment. It adds no personnel. It simply mandates that one of the considerations of this new Department of Education in this new area be foreign languages and the studies of other cultures.

This Nation has entered a new era, whether we recognize it or not, and the new Department of Education should help to bring us into this new era better equipped than we now are.

School board members in Carbondale, Ill., or Keokuk, Iowa, or in Vermont or Nevada look at their immediate needs and see that they must provide basic "reading, writing, and arithmetic." But if we are to meet this Nation's economic and security needs, we must also learn other languages and learn about the cultures of other countries. That is not always clear in local communities in Illinois or Iowa or Vermont or Nevada.

This amendment simply adds as a priority for the new department foreign languages and the study of other cultures.

Let me add that if this amendment is agreed to, I intend to follow through so that we do get the type of visible leadership in this vital area that the Nation

Mr. FASCELL. Mr. Chairman, I would like to add my commendation to the gentleman from Illinois (Mr. Simon) for his leadership in this area, particularly in the formulation and establishment of the President's commission. I think this is the logical next step, and I congratulate the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Simon).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Grassley: Page 59, after line 8, insert the following new subsection and redesignate the succeeding subsection accordingly:

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

Mr. GRASSLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

(Mr. GRASSLEY asked and was given permission to revise and extend his re-

Huckaby
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Preyer
Pritchard
Quillen
Railsback
Rangel
Ratchford
Wolpe
Wyatt
Yates
Yatron
Young, Mo.
Zablocki

NOT VOTING—26

Addabbo
Anderson, Ill.
Ashley
Badham
Bolling
Conyers
Diggs
Dingell
Fary
Flood
Forsythe
Goldwater
Hagedorn
Johnson, Calif.
Lloyd
Lundine
Madigan
Price
Rudd
Runnels
Schulze
Treen
Waxman
Wilson, Bob
Wright
Zeferetti

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Johnson of California against.

Mr. Runnels for, with Mr. Conyers against.

Mr. Bob Wilson for, with Mr. Diggs against.

Mr. Badham for, with Mr. Fary against.

Mr. Goldwater for, with Mr. Flood against.

Mr. Rudd for, with Mr. Waxman against.

Mr. Price for, with Mr. Dingell against.

Mr. Hagedorn for, with Mr. Schulze against.

Mrs. HECKLER changed her vote from "no" to "aye."

Messrs. LEHMAN, BEREUTER, and McCORMACK changed their vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

☐ 1450

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

needs. We must follow through, so that these are not simply empty words written into our statutes, but a living commitment which the new department has and conveys to the Nation.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I think this is a good amendment. I will be very happy to accept the amendment.

Mr. SIMON. Mr. Chairman, I thank the gentleman.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to my colleague, the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I want to congratulate the gentleman from Illinois (Mr. SIMON) for his initiative in offering this amendment. I think it responds to a need a number of us have for many years felt has not been adequately met by the Federal Government.

I congratulate the gentleman for his leadership in general in this area, and I hope the amendment will be agreed to.

Mr. SIMON. Mr. Chairman, I thank my colleague, the gentleman from Indiana.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Florida.

marks.)

Mr. GRASSLEY. Mr. Chairman, the amendment at the desk is simple and straightforward. It contains only two sentences. However, for anyone who has ever had a problem or question relating to rural education, the adoption of this amendment could mean the end of a great deal of frustration and confusion.

My staff and I have attempted to locate the exact division, office, or person in the current Office of Education who can answer a simple question or look into a problem which affects the approximately 15 million children who attend rural schools. I have found bureaucratic roadblocks and confusion—and I know of several other Members who have had the same experiences. I have concluded that no one in the massive Office of Education is responsible for assisting rural schools, rural teachers, or rural students.

This situation is inexcusible. Of the nearly 17,000 public school districts in this country, more than 12,000 are rural and of these 32 percent have enrollments of less than 300 pupils. Rural schools have one-third of the enrollment, but only 5 percent of the research funds, only 11 percent of the library funds, only 14 percent of the vocational programs, and only 13 percent of the funds for dropout prevention programs.

Obviously, very little educational priority is given to rural schools. This Federal neglect of rural education has resulted in an urgent need for the promotion and coordination of programs providing assistance to rural schools and educators. The lack of a division, office, or section in HEW's Office of Education emphasizes this need. My amendment, by assigning one of the six principle officers of the new department the responsibility of working with rural education, would correct the confusion and problems that have characterized the attempts to deal with the Federal education bureaucracy.

This amendment does not create any new positions or bureaucracy. It does not call for any additional funding. The amendment only asks that one of the six principal officers created by this bill makes sure that someone in the new department works to promote and coordinate current programs applicable to rural education. At the same time, it is my hope that someone in the new department will be able to work with the Congress to answer questions the public has or to work on problems being experienced by rural school districts, administrators, teachers, and concerned parents.

The amendment seeks only equity for our rural residents and their children. Mr. Chairman, 20 percent of our Nation's nonmetropolitan children are poor. If we are trying to assure educational opportunity, we must not neglect this significant proportion of poor children or the rural communities that are too poor to provide quality education without proper assistance. Obviously, most rural people are not poor, but those who are are among the Nation's most disadvantaged. Past and present neglect of rural education has added to, not aided, this situation.

Let me give you just a few examples of tion. I think this is a good way to call specific attention to it.

I am very happy, Mr. Chairman, to accept the amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I think the amendment is quite acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GRASSLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 58, line 8, strike out "six" and insert in lieu thereof "seven".

Page 64, after line 2, insert the following new section and redesignate the following sections and conform the table of contents accordingly:

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer and coordinate functions under Title VII of the Elementary and Secondary Education Act of 1965, post secondary education programs and any other programs relating to bilingual education, including research, development, evaluation and assessment with respect to such programs. The Assistant Secretary shall perform such additional functions as the

that prevent them from performing academically at the same level as their English-speaking peers.

In 1976, Mr. Chairman, the General Accounting Office concluded that "the language of the limited English-speaking children may not have been used enough in classroom instruction," in assessing reasons for poorer achievement by language minority children.

The purpose of my amendment is very simple. It is to finally have a person within the new department with the stature and the authority to efficiently administer and coordinate all bilingual efforts within it.

That not only means those that presently fall under the Office of Education in HEW but other related activities such as teacher training programs, research and development, aids to education, bilingual vocational education, postsecondary education, and others.

Only with this kind of coordination, Mr. Chairman, will we be able to significantly improve the administration of bilingual education programs, as well as the quality of the programs and, much more important, the end result.

In authorizing title 7 of the Elementary and Secondary Education Act, Congress has recognized the real need for bilingual education in this country and has shown its dedication and commitment to all bilingual language programs of this type.

To use the words of President Carter, in his very recent address to the legislature in Mexico City, he said:

> We are in fact a pluralistic society shaped

the persent neglect of rural education that I am talking about. The National Center for Education Statistics annually publishes "The Condition of Education" which provides a comprehensive overview of many aspects of American education—rural education is specifically excluded from the report.

The U.S. Office of Education distributes around 135 titles—none of them are on rural education, nor is "rural" contained in any subtitle. However, you will be pleased to know that there are helpful reports on education in Poland, Tunisia and Ecuador.

The Office of the Assistant Secretary for Education supports a range of studies on education policy and finance. To date, however, ASE has provided funds for only one rural education study.

Obviously, the problems of our 15 million rural schoolchildren have been neglected at the Federal level. Therefore, I urge all of my colleagues who have rural school districts in their congressional districts or who have a concern for equal educational opportunities for all Americans, to support this simple amendment. I believe it will provide for a much needed service, without adding to the costs or bureaucracy of the new Department.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have studied the amendment. We had a copy of it earlier. I think it is a good amendment, and I agree with the gentleman from Iowa (Mr. GRASSLEY) that there ought to be assistance to rural education

Secretary may prescribe.

Mr. GARCIA. Mr. Chairman, I am offering this amendment to which my colleagues, the gentleman from California (Mr. ROYBAL), the gentleman from New York (Mr. RANGEL), the gentleman from New Mexico (Mr. LUJAN), and the gentleman from Arizona (Mr. UDALL), have also added their names. I believe the amendment to be germane to the purpose of a coordinated and efficient program of education.

Despite our present economic situation, this country is perceived as a land of opportunity and stability. This is substantiated by the significant number of immigrants and refugees from countries like Vietnam, Iran, Russia and Eastern Europe, and Haiti, that enter this country on a monthly basis. The fact is that the children of these immigrants will eventually enter our education system, and the government, both at the Federal and local levels, has the responsibility to provide them with services.

Mr. Chairman, a recent study performed by the National Center for Educational Statistics revealed some very interesting facts. Of of 1978, Arizona, California, Texas, Hawaii, and New Mexico have over 20 percent of limited English speaking ability children, better known as LESA. There are nine other States, New Jersey, New York, Pennsylvania, Florida, Louisiana, Illinois, Ohio, and Nevada, which have 10 to 20 percent of LESA children.

It is a fact today, Mr. Chairman, that almost 4 million school-age children in this country are in some need of bilingual education to overcome language barriers by many influences forming a distinct culture while retaining much of the original character. An effective program of bilingual education in a country will serve to enhance our cultural riches.

Mr. Chairman, I strongly urge that my colleagues support this amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I am very sympathetic to the amendment, but the problem I have with it is that it increases the number of assistant secretaries to seven.

If this responsibility could be assigned to one of the existing secretaries to the six assistant secretaries, I think it would be a very good amendment. However, when we add an additional assistant secretary, it does create problems with regard to the number of personnel in this office. We are trying to limit the number of personnel.

We do have a number of amendments by which other Members are offering language to increase the number of assistant secretaries.

Mr. Chairman, if the gentleman would be willing to delete that portion of the amendment, I think the other part of the amendment would be good to have in the bill. Unfortunately, I would have to oppose the amendment because of the increase in the number of assistant secretaries which is at a high level.

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

(By unanimous consent, Mr. GARCIA

was allowed to proceed for 3 additional minutes.)

Mr. GARCIA. Mr. Chairman, if I may respond to the gentleman from New York (Mr. HORTON), one of my other duties as a Member of this House is that I have been recently appointed chairman of the Subcommittee on the Census, and I would like the gentleman from New York to understand that one of the things that has become very clear to me as I hold hearings around this country is that there is a very large community in the United States—I would venture to say the number is close to 25 or 30 million people—whose primary language may not be English, and these people are not being served.

☐ 1500

I think that HEW has long had a system for bilingual education which has really never had the authority which these 25 million people, as I see it, are going to need. I would hope that the decade of the 1980's would be a decade in which all Americans are included, in terms of education.

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. GARCIA. I yield to the gentleman from New York.

Mr. HORTON. I would agree with the gentleman and I am in complete accord with the gentleman that there is a problem of bringing education to this particular group, and I think the amendment is a good amendment. I think, under the circumstances, with a separate Department of Education you will have a different situation than you have now when millions for whom English is not a first language, that is true. Almost every human being in this country did not have English—very few, in any case—as a first language. They learned, and they became a part of the general mainstream of our country. I am just wondering if we are doing them a favor with this separation from the mainstream.

Mr. GARCIA. If I may regain my time, the last thing I want to do, as I said on the last amendment, is to separate. I want to bring together. I think that, as opposed to our society, which is a monolingual society, when we go to the other cultures as we know them, where many of our grandparents and our parents came from, the fact is that those are many cultures. I find that to be extremely satisfying, and I think those cultures, especially the European cultures, mean a great deal. We do not have that.

I do not want to belabor the point, but I think it is going to strengthen us as a Nation and not weaken us.

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to commend the gentleman for introducing the amendment. I have a similar amendment at the desk, which I will not offer, and I will support the cation. As H.R. 2444 now stands, the offices of assistant secretary control broad functional areas of Federal education programs, such as elementary and secondary education, and postsecondary education. There are no assistant secretaries to oversee one specific area of categorical programs, such as bilingual education, and I do not think that there should be. This is not to detract from the importance of bilingual education programs. I have supported them. I support them now. But I do not support them with a special secretary to be in charge of them. If you want to have an office that concentrates bilingual education, coordinates it within a new Department of Education, that is fine; but to have an assistant secretary is not workable, nor is it desirable.

There are many important components of the Federal effort to make educational opportunity equal among all children, and they will continue to maintain their importance in the new Department of Education. But I do not think that the effectiveness of bilingual education programs can be enhanced by the creation of an Office of Assistant Secretary for Bilingual Education.

Mr. CORRADA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of my colleague from New York, to H.R. 2444, which would reiterate our commitment to strengthen and improve the administration and oversight of the bilingual education program. Last fall when we reauthorized you are dealing with the Department of HEW because of the bureaucracy and the other points we have made with regard to the need for HEW. But the problem I have with having one specific assistant secretary for this purpose is pure and simple. It does create additional personnel which would require us to have to increase the number of personnel in the Department. If this responsibility could be assigned to one of the six that are already designated in the bill, I would have no trouble with the gentleman's amendment.

Mr. GARCIA. If I may respond to the statement of the gentleman from New York, the basic problem I have with that is that I think that the question—it is my thought, obviously—of bilingual education is going to be extremely important to us in our future as a country. I would hate to have the system of bilingual education diluted by having that secretary having other responsibilities besides the running and administering a bilingual education program throughout the United States.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I am troubled by the gentleman's amendment, if I may tell the truth. I remember what our former colleague, Mr. Dent, used to say in those passionate speeches on the floor of the House. I wonder whether this is really in the interest of our children. We have

amendment offered by the gentleman from New York (Mr. GARCIA).

Referring to some comments that have been made, I would like to say that perhaps the word "bilingual" is a misnomer. What we have attempted to do, those of us who have supported this program, is to use that language as a tool to bring them into the mainstream and not to divide the cultures or to divide languages but, rather, to see that it is used as a tool in order to enhance the movement into English speaking and, eventually, wind up with two or three languages. As all of us know, the person who speaks two languages is better off than the person who speaks one.

So far as the assistant secretary is concerned, I think that perhaps something could be worked out. But this is such a technical area, with the research and methodology and all of the aspects of it. We are speaking of over 100 languages. I think the people involved, with the intent of the Congress, merit the position of an assistant secretary to coordinate all of these efforts.

Again I commend my colleague, the gentleman from New York (Mr. GARCIA). In view of his offering his amendment, at this time I will support it and I will withdraw my amendment

Mr. GARCIA. I thank the gentleman for his remarks.

Mr. BROOKS. Mr. Chairman, I am reluctantly in the position of having to oppose this amendment, because it would certainly detract from our general efforts to streamline the administrative structure of the new Department of Edu-

the Bilingual Education Act, we did a general overhaul to enable a more efficient delivery of services, coordination, and administration. The program is finally being administered in a conscientious manner. Yet in establishing a Department of Education, we should insure that bilingual education is not diluted and relegated to the back burner. We should not foster the fragmentation of initiatives all aimed at the same basic purpose, which is to serve the educational needs of children of limited English proficiency.

Close to 4 million of these children look at bilingual education as the vehicle through which they can gain an equal educational opportunity, an access to education which is not provided by the overall system which relegates them to underachievement, maladjustment, and the ranks of the dropouts.

Bilingual education should be monitored, refined, and improved, so that the high hopes which it has engendered in the hearts and the minds of those who need it are not thwarted. The integrity and effectiveness of the Federal commitment can be safeguarded by proper administration, and this can best be achieved through the vehicle which my colleague from New York proposes. I urge you to support his amendment.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I do so because I am not certain whether I will support or vote against the amendment offered by the gentleman from New York (Mr. GARCIA). But I would like to make some observations about the underlying program of bilingual education.

It has been pointed out that in the city of Chicago—which I do not represent but which is nearby my district—the bilingual education program includes, in some instances, teachers who are not proficient themselves in English, whose not only principal but almost only language is Spanish in the particular area in which they speak. The bilingual program was intended, and rightfully intended, to try to help to bring those whose principal language was other than English into the mainstream by helping them learn the English language. But in all of those many instances—and I think even those who are supporters of the program will agree that this has happened in some instances—it has become the practice merely to teach people in their principal tongue, which then of course makes it unnecessary for them to become proficient in English.

☐ 1510

In addition, I would point out that the argument of the chairman, the ranking member, against assigning specific duties to a specific under secretary is a valid argument. I think it is good organizational policy, one that would be backed by the Hoover Commission and other commissions concerned with organizational structure.

The Secretary of the Department should be given assistant secretaries without designated duties so that he could from time to time organize and

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Sec. 210. There is established in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my good friend, the gentleman from New York.

Mr. HORTON. The gentleman from Texas has offered an amendment which I think cures the concerns that I had with the amendment that was offered by the gentleman from New York (Mr. GARCIA).

Accordingly, I would be very happy to accept this amendment. I think it is a good amendment. I think it is an amendment that should be in the bill. I certainly would indicate my support for it and urge its adoption.

Mr. DE LA GARZA. I appreciate the gentleman's cooperation.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas, the distinguished chairman of the committee.

Mr. BROOKS. I share that feeling and believe this amendment that the gentleman from New York (Mr. GARCIA), and the gentleman from Texas (Mr. DE LA GARZA) for the amendments that have been presented.

I sincerely hope that it will be carried unanimously and that it will strengthen the Department. It will strengthen bilingual education and mean a great deal to the Department of Education as a whole.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman from Texas for yielding.

I have no problem with the amendment to my amendment. I would accept that.

Mr. DE LA GARZA. I appreciate that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Minnesota.

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

I commend the gentleman for their efforts in defining the purpose of this amendment.

Mr. DE LA GARZA. Mr. Chairman, I respectfully request my colleagues to support the substitute amendment.

Mr. Chairman, I appreciate the cooperation of all of the Members and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlereorganize as is necessary the functions within his Department without the strictures that would be attendant with having specific statutory designation of authority.

I do support the argument of our chairman, the ranking minority member, in that regard.

I am constrained, however, to point out that section 203 of the bill, beginning on page 59, violates that very tenet by creating a separate Assistant Secretary for Civil Rights.

So, though they have made that argument relative to this amendment, it is not consistent with the practice contained in their bill. This being the case, one has to decide whether to go along with the exceptions that they have begun and support the amendment or rather to try to fight for more purity in the bill and good organizational structure and oppose the amendment.

So posed with that dilemma, all I can think of doing is insisting we have a vote on the amendment at least.

AMENDMENT OFFERED BY MR. DE LA GARZA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. GARCIA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA as a substitute for the amendment offered by Mr. GARCIA:

Page 64, after line 2, insert the following new section and redesignate the following sections and conform the table of contents accordingly:

man offers will facilitate the accomplishment of the aims of the gentleman from New York (Mr. GARCIA) and will bring into a more prominent view and better expedite, facilitate, and coordinate the bilingual efforts of the Department of Education to be constructive. It would be constructive. I would certainly support it.

Mr. DE LA GARZA. I certainly appreciate the cooperation of the distinguished chairman.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my good friend, the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

First, I would like to commend my colleague from New York (Mr. GARCIA) for the introduction of his amendment and congratulate the gentleman from Texas (Mr. DE LA GARZA) for offering a substitute, because it deals with the natural concerns that flow from the language of the original amendment.

Both of them, however, address themselves to a very vital segment of the education process, and I am hopeful that the enactment of this amendment will aid in the coordination and administration of the entire bilingual program.

Mr. DE LA GARZA. I appreciate the gentleman's cooperation.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. ROYBAL. I, too, would like to commend the gentleman from New man from Texas (Mr. DE LA GARZA) as a substitute for the amendment offered by the gentleman from New York (Mr. GARCIA).

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman make his demand on the amendment or on the amendment offered as a substitute?

Mr. ERLENBORN. On the substitute, Mr. Chairman.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 212]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger

Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary

Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McDade

Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence

their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 396, noes 22, not voting 16, as follows:

[Roll No. 213]

AYES—396

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson,
  Calif.
Andrews, N.C.
Andrews,
  N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi

de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell

Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa

Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe

Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds

Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOES—22

Badham
Bafalis
Bauman

Grisham
Johnson, Colo.
Kelly

Myers, Ind.
Nedzi
Obey

Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
  Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki

☐ 1530

The CHAIRMAN. Three hundred sixty-three Members have answered to

Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-
  schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Brown, Ohio
Burgener
Clinger
Early
Findley
Marlenee
Martin
Moorhead,
  Calif.
Mottl
Paul
Shumway
Shuster
Young, Fla.

NOT VOTING—16

Addabbo
Anderson, Ill.
Bolling
Burton, John
Conyers
Dingell
Flood
Forsythe
Frost
Goldwater
Hughes
Johnson, Calif.
Runnels
Treen
Wilson, Bob
Zeferetti

☐ 1550

Mr. BAUMAN changed his vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GARCIA), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 290, noes 124, not voting 20, as follows:

[Roll No. 214]

AYES—290

Akaka
Albosta
Alexander
Anderson,
  Calif.
Andrews,
  N. Dak.
Annunzio
Archer
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker

Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Emery
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Livingston
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
English
Erlenborn
Evans, Ga.
Evans, Ind.
Findley
Flippo
Fountain
Frenzel
Gore
Gradison
Grisham
Gudger
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Hinson
Holland
Hopkins
Ichord
Jeffries
Jones, Okla.
Kastenmeier
Kelly
Kindness
Kramer
Lagomarsino
Leach, La.
Lee
Lent
Lewis
Lloyd
Loeffler
Lott
Lungren
McCloskey
McDonald
McEwen
Madigan
Marlenee
Martin
Mathis
Mazzoli
Miller, Ohio
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Myers, Ind.
Neal
Nedzi
Nichols
Obey
Pashayan
Paul
Petri
Pritchard
Quayle
Regula
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sensenbrenner
Shelby
Shumway
Shuster
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Symms
Tauke
Thomas
Trible
Vander Jagt
Whitehurst
Whittaker
Wydler
Young, Fla.

NOT VOTING—20

Addabbo
Anderson, Ill.
Anthony
Bolling
Bowen
Conyers
Dingell
Flood
Forsythe
Frost
Goldwater
Goodling
Hughes
Johnson, Calif.
Johnson, Colo.
Leath, Tex.
Runnels
Treen
Wilson, Bob
Zeferetti

☐ 1600

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

their coordination. The authority for administering the programs has been divided up and there is little effort to coordinate the programs. In the urban setting the problem is not as great because of the close geographical proximity of the people that take part and the programs that are offered, but in a rural setting the delivery of the programs becomes very impractical.

In Montana and other rural areas, vocational education schools are hundreds of miles apart, as are adult educational centers, counseling centers, child development centers, and so forth. Because services are so far apart geographically, the disadvantaged people are not able to participate because they have no way to get to the programs. In order to participate we split up, the very family unit we are trying to preserve.

In Montana we have tried to meet the needs of the rural disadvantaged by providing a residential family development program to improve the employability and family functioning of rural disadvantaged families within the six-State region of North Dakota, South Dakota, Wyoming, Nebraske, Idaho, and Montana. Families move as a unit from within the region to the former Glasgow Air Force Base and reside there for a period of 8 months. The premise underlying the operation is that family-oriented career education, implemented through a comprehensive family-human development approach represents an effective, efficient method of improving employability, standard of living and

Erdahl
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gramm
Grassley
Gray
Green
Guarini
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Marriott
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Synar
Taylor
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOES—124

Abdnor
Ambro
Andrews, N.C.
Applegate
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Chappell
Clinger
Coleman
Conable
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Deckard
Devine
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.

Amendment offered by Mr. MARLENEE: Page 63, line 10, insert immediately after the period the following new sentence: "The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.".

(Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

Mr. MARLENEE. Mr. Chairman, the amendment that I am offering does not create any new Federal program. It does not increase the numbers of Assistant Secretaries. It gives to the proposed Assistant Secretary for Vocational and Adult Education the authority to coordinate, already existing educational programs that are now scattered throughout the proposed Department of Education, and to work with the Interdepartmental Education Coordinating Committee to provide a unified family education approach to better serve the needs of rural disadvantaged families.

In the vast array of the Federal Government, there is no one program designed to provide a family-oriented education and development program, in a residential setting and implemented as a comprehensive, family, human approach. The programs we have now are basically designed to break the cycle of poverty for the urban poor. Many of them are good, but the problem comes with the delivery of the programs and life satisfaction of a disadvantaged population. Students are provided with career guidance, vocational training, and individualized counseling. Family core programs are designed to provide parents with skills in home management, health, parental responsibility and basic surviving skills.

Central to this approach is the concentration of services and the focus on the entire family as a productive and mutually supportive unit. The people who come to the Family Training Center are those who have had little training and little success, but still harbor hope. At the center, these families, many of them young, gain strength and support from each other in their common motivation to become productive contributing members of society. They learn and grow together at the center. They have the stability of their family as they work to shed the yoke of welfare and misfortune.

The success ratio for the program has been good. Approximately 75 percent of the student families complete the program. Last year, 1978, data showed that 3 weeks after completion of the program, 89 percent of completing heads of households are found to be employed, versus 45 percent to entering the program. The income gain for students was $107 per month, for the head of household. Individual students, payback, in Federal taxes the cost of the program in 5.4 years which is half the time as similar nonfamily programs. Thereby the program makes the family unit a producer of income rather than a user of tax revenue. It goes beyond the job training approach and does not fit neatly into any existing CETA, WIN or labor program. It treats the educational needs of the entire family together in a residential setting, representing an effective way to not only improve employability, but increase the standard of living and participation in the community.

During its 7 year existence the Governors of the six States, served by the program, along with the congressional members of the States, the regional governmental councils and the agencies within the region, as well as the student families who have participated have gone on record numerous times in its support.

There is growing national interest in treating the problems of the family as a whole. The disadvantaged family suffers as a whole and our social agencies are beginning to realize that it makes sense to administer assistance under one unified program rather than as chopped-up and often disjointed programs.

As it now stands the programs are treating only individuals and therefore only a part of the problem. It makes little sense to treat a child for juvenile delinquency when dad is gone. It makes little sense to give homemaking skills, when dad is an alcoholic. It makes little sense to give dad vocational skills if the family is not supportive. It makes little sense to split up a family and ship it in four different directions and when the training is over; let them try to put it together again.

What this program does is take the whole family, the losers, and take them the chairman of the committee. I think it is a good amendment and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MARLENEE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred fifteen Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 403, noes 3, not voting 28, as follows:

[Roll No. 215]

AYES—403

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzales
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
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Lederer
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Marlenee
Marriott
Martin
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Mattox
Mavroules
Mazzoli
Mica
Michel
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
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Price
Pritchard
Pursell
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Rodino
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Rose
Rosenthal
Rostenkowski
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Rousselot
Roybal
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Rudd
Russo
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
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Stark
Steed
Stenholm
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Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
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Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio

out of their environment and give them a chance as a family to say, hey, we can make it.

We feel that the time has come to have an agency, such as the proposed Office for Vocational and Adult Education take over the program at Glasgow and coordinate a family educational approach to assist in meeting the needs of the rural family as a unit, and to coordinate efforts of all sectors of the Department of Education and other related agencies to accomplish this goal and save money doing it.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I want to say to the gentleman from Montana (Mr. MARLENEE) that I have looked at this amendment. We have gone over it with the gentleman, and we have gone over it with the gentleman from Montana (Mr. WILLIAMS). It is a reasonable amendment. It provides for a unified approach to rural family education, which we think is an admirable purpose and one of the things that the new Department certainly will facilitate.

Mr. Chairman, I think it is a good amendment and we agree with the gentleman.

Mr. MARLENEE. I would only point out, Mr. Chairman, that this language has also been included in the Senate bill.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would also agree with the statement made by

Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Baum[illegible]
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
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Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
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Holland
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Hopkins
Horton
Howard
Hubbard
Huckaby
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Hyde
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Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
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Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOES—3

Miller, Calif.
Moorhead, Calif.
Paul

NOT VOTING—28

Addabbo
Alexander
Anderson, Ill.
Bolling
Chisholm
Conyers
Dickinson
Dingell
Edgar
Flood
Florio
Forsythe
Goldwater
Goodling
Hansen
Hughes
Johnson, Calif.
Johnson, Colo.
Lehman
Mitchell, Md.
Nowak
Roberts
Runnels
Skelton
Treen
Waxman
Wilson, Bob
Zeferetti

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So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. MILLER of California: On page 62, lines 14 and 15, strike out "and Rehabilitation Services"; and conform the table of contents accordingly.

On page 62, line 17, strike out "and Rehabilitation Services";

On page 62, lines 20 and 21, strike out "and rehabilitation services";

On page 62, line 23, strike out "and rehabilitation services".

Page 70, strike out line 24 and everything that follows through line 12 on page 71 and redesignate the succeeding paragraphs accordingly.

Page 77, line 16, strike out "section 208" and insert in lieu thereof "section 207".

Page 78, line 21 strike out "section 208" and insert in lieu thereof "section 207".

Page 80, line 19, strike out "section 209" and insert in lieu thereof "section 208".

Page 99, strike out line 11 and everything that follows through line 18 and insert in lieu thereof the following:

(f) Section 5315 of title 5 of the United States Code is amended by inserting immediately after paragraph (24) thereof the following:

Page 102, line 14, strike out "section 209" and insert in lieu thereof "section 208".

Page 104, strike out line 12 and everything that follows through line 18 and insert in lieu thereof the following:

(n) There shall be in the Department of Health and Human Services an Assistant Secretary for the Handicapped who shall be responsible for the administration and supervision of the Rehabilitation Services Administration, the National Institute of Handicapped Research, and such other programs, agencies, or functions affecting the handicapped as the Secretary of Health and Human Services shall delegate to the Assistant Secretary.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, considered as read, ministered by State rehabilitation agencies. The goal of the services is two-fold under Public Law 95-602, the 1978 Rehabilitation Act Amendments. First, the basic rehabilitation program supports services whose goal is employment; second, the new independent living program supports services aimed at a social goal—functioning and living independently in the community. In both cases the services financed are comprehensive services, managed and provided by a multidisciplinary team. By statutory definition and practice, the services include medical diagnosis, physical restorative health care, mental restorative health care, prosthetic and orthotic and other technological aids and devices, income support, counseling services, special services to the deaf and blind, and vocational training and placement services. The service providers are physicians from numerous specialties, psychologists, rehabilitation counselors, physical therapists, occupational therapists, speech pathologists, social workers, and vocational placement and training specialists. The beneficiaries of these services are disabled adults over the age of 16.

The services and professionals involved are health and social services and professionals, not educational services and teachers. The facilities providing the services are hospitals, rehabilitation clinics, workshops, and State rehabilitation agencies, not schools or colleges. The clients involved are adults, few of whom are students in elementary, secondary, or postsecondary schools.

tion that rehabilitation must be separated from the "welfare" or "W" part of HEW. That proposition does a great injustice to the realities of programs and needs of the handicapped. The income support part of HEW provides income assistance to 5 million disabled people under disability insurance and an additional 1.5 million under SSI. That income is important to the disabled individual and to his or her rehabilitation and independent function. Also, DI and SSI finance about $200 million of rehabilitation services and those income support and rehabilitation programs all remain in the Department of Health and Human Services. The "W" or welfare part of HEW is also the social service component of HEW which provides title XX social service financing for the disabled and others whose incomes are at or below 80 percent of the median income. The social service component of HEW also include services to the developmentally disabled; and those services stay in the Department of Health and Human Services.

The other argument for a transfer of RSA, the Institute and the National Council on the Handicapped, to the Department of Education is that there will be greater visibility and higher stature for these programs. However, my amendment creates an Assistant Secretary for the Handicapped in the Department of Health and Human Services who reports directly to the Secretary and would be responsible only for programs for the handicapped. H.R. 2444 does not create and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I rise to offer a number of amendments to H.R. 2444. Most of these are technical amendments, and I ask that they be considered en bloc. These amendments deal with the transfer of the Rehabilitation Services Administration (RSA) and the National Institute of Handicapped Research to the proposed Department of Education. The administration's original proposal to create a Department of Education did not include these transfer provisions. They were added in committee by amendment.

The organizational placement of any agency ought to be determined by the closeness of the relationship between the programs involved and other programs of the Department in question. The general mission of the Department, the kinds of services or research it finances, the people who are beneficiaries of the services, the professionals involved in the field, and the agencies at State and local levels that deliver the services of the Department's programs are the relevant factors. Measured by any of these criteria, rehabilitation programs should be placed in a Department of Health and Human Services, not a Department of Education. Both RSA and the Institute should remain in the Department of Health and Human Services. I will discuss the two agencies separately.

RSA is responsible for the financing of rehabilitation services which are ad-

The great leaders in the field of rehabilitation have been Mary Switzer and Howard Rusk. Mary Switzer was a member of the Public Health Service prior to becoming the head of what was then RSA and Dr. Rusk is a physician.

Let us review the Federal expenditures for the services financed by RSA. In fiscal year 1977, apart from the costs of State agency operations, about one-half of all services purchased by state agencies were health-related services, one-fourth vocational training, and less than a one-fourth support for studies at the college level.

Generally, we entrust most organizational placement issues to the executive branch. In this instance, the President proposed a new Department of Education, but his bill, like my amendment, would leave RSA and the Institute in the Department of Health and Human Services. During the past 12 years Democratic and Republican administrations have placed RSA and the predecessor program to the Institute in the social service division of HEW, not the Education Division or the Office of Education. Wilbur Cohen and Mary Switzer created a Social and Rehabilitation Service which included RSA and the Republican administrations placed RSA with the health and social service programs for aged and children in the Office of Human Development. At the State level, 41 of 83 rehabilitation and blind agencies are in human service departments and 22 in independent agencies. Only 20 are in education departments.

It is maintained by those that support a transfer to the Department of Educa-

an Assistant Secretary responsible solely for programs for the handicapped. My amendment therefore gives greater stature and visibility to RSA, the Institute, and the National Council than H.R. 2444.

With respect to the Institute, the case for its staying in the Department of Health and Human Services is even stronger. Of the $31.5 million budget for the Institute, $20 million is for medical, health, or technological research. This research is closely related to that of NIH, NIMH, the technology development research of NIH and the Office of the Assistant Secretary of Health. It bears little or no relationship to the educational research of the Department of Education.

Of the 20 rehabilitation research and training centers funded by the Institute, 11 are medical centers, 3 centers are for developmental disabilities which are psychological and social research centers, and 2 mental health centers.

Mr. BEARD of Tennessee. Would the gentleman yield?

Mr. MILLER of California. Yes, I yield to the gentleman.

Mr. BEARD of Tennessee. Would the gentleman tell me what organizations support your amendment?

Mr. MILLER of California. Yes. Some of the groups and individuals that support this legislation are the Disabled American Veterans, the Paralyzed Veterans of America, the American Congress of Rehabilitative Medicine, the Association for the Advancement of Psychology, the American Foundation for the Blind, the Institute of Rehabilitative Medicine in New York, Ed Roberts, who is the director of Rehabilitation in the State of California, Mr. L. R. Rader, who is the director of the Oklahoma Department of Public Welfare, Mr. William Spencer, who is the director of the Texas Institute of Rehabilitation, Dr. Henry Betts, who is the director of the Rehabilitation Institute in Chicago, the National Association of Social Workers and other combined groups.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I think the point is, ladies and gentlemen, that there is some feeling if you transfer these services to the Department of Education that somehow we are garnering support for the passage of this legislation. That is not the basis on which the transfer of programs into the new department ought to be based.

The rest of the programs surrounding disabled Americans in fact, are in and will continue to remain in the Department of HEW. That is where the money is, whether it is Social Security, which finances about $150 million of vocational rehabilitation services, or whether it is title XX of the Social Security Act. The fact is that in the Department of Education there is about $1 billion for rehabilitation.

It comes under the Education of the Handicapped Children. That would be transferred because that deals with the problems of education of the handicapped in the elementary and secondary school level. This does not deal with that at one point that perhaps some of the organizations of handicapped citizens may have supported it, such as the American Coalition of Citizens with Disabilities, and yet I have received a very recent resolution, dated May 20, from their national convention in which they indicated that they support retaining RSA in HEW, under an assistant secretary. Is that the gentleman's understanding?

Mr. MILLER of California. It is my understanding that they would support my amendment now that it creates an assistant secretaryship in HEW; that that organization in fact would support this amendment.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I want to commend the gentleman as well. He has spent a great deal of time on issues that relate to people, and I think the advice he is giving us to fractionalize this program at HEW would not be to the advantage of the handicapped of the country.

Mr. MILLER of California. I thank the gentleman.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the transfer that is in the bill is a result of a series of amendments which I offered in committee. My amendments were quite simple. They pendent, self-sufficient, tax paying men and women.

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So we established the office in the Department of Education that would insure that these services were coordinated in an atmosphere dedicated to training and to education. This language was included in the Senate bill which passed last year, and it was also in the bill that was reported in the House last year. Basically the language that we have is now the same language that is included in the Senate bill which was passed just this year.

I have just received from Dr. Bowe a telegram, and I would like to read it. It says:

> On behalf of the American Coalition of Citizens with Disabilities, representing more than 7 million disabled people; the Council for Exceptional Children and the National Rehabilitation Association, representing professions of special education and vocational rehabilitation; and the executive committee of the Council of State Administrators of Vocational Rehabilitation, we urge you to vote in support of H.R. 2444, a bill to establish a cabinet-level Department of Education. We strongly support the inclusion of vocational rehabilitation and related programs for the handicapped in the Department and the provision of an Assistant Secretary for Special Education and Rehabilitation.

This telegram is dated June 5, and it is signed by Dr. Bowe. It is also signed by Joseph Owens, who is the executive director of the Council of State Administrators, by Frederick Weintraub, assist-area, and it belongs in HEW. It ought to remain in HEW. I think it is very clear that those people who have spent their lives in forwarding the progress of the disabled Americans in this country support this amendment to delete the transfer.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to my colleague from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his amendment. I think it is an excellent amendment, and I intend to support it.

I am rather at a loss, after listening to the large list of individuals and organizations who support the amendment, to understand how the proposed change could have been included in the bill before us. Does the gentleman have any idea of what led to putting the Rehabilitation Services Administration in the Department of Education?

Mr. MILLER of California. I do not understand. My original understanding was that there was some search for a heightening of visibility by creating an assistant secretary in the new department, but my concern is, why should we pick up and move a whole program?

What this amendment will do is provide for an assistant secretary in HEW, and let us leave it where it belongs. There was some theory about visibility, but I do not understand how we get visibility and have a program in the Department of Education.

Mr. BROWN of California. If the gentleman will yield further, I understood transferred service under the Rehabilitation Act of 1973 and the Randolph-Sheppard Act for the blind from HEW to the Department of Education. Rehabilitation functions of the Social Security Administration were not transferred, and my amendments established in the Department of Education an office to administer special education and rehabilitation services.

My amendments, and the amendment that was adopted and is in the bill, provided for a common administration of education and training programs for the handicapped from birth through adulthood, eliminate the program overlap, and facilitate continuity of services. It also provided a focal point for coordination of habilitative or rehabilitative services for the handicapped.

The amendment was supported by the American Coalition of Citizens with Disabilities; the National Rehabilitation Association; the Council of State Administrators of Vocational Rehabilitation; the Council for Exceptional Children; and the American Council for the Blind.

Contrary to what Members have heard, the administration is not opposed to this amendment. My amendments which were accepted and are now part of the bill and which this amendment attempts to take out, were urged by Dr. Frank Bowe, director of the American Coalition of Citizens with Disabilities, who testified before our subcommittee. He argued that disabled children, youth, and adults need high quality, well planned and carefully coordinated services in order to prepare themselves for full participation in our society as independent executive director for Governmental Relations for the Council for Exceptional Children, and by Elizabeth Anderson, president of the National Rehabilitation Association.

Mr. Chairman, I urge the defeat of the Miller amendment. This is a very important provision. It was strongly supported when I offered it in the subcommittee last year and this year. It was urged by Dr. Bowe and those others who testified before our subcommittee, and I feel it is a good provision to be retained in the bill.

Mr. BROWN of California. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I wonder if we could clarify the situation with regard to Dr. Bowe and the American Coalition of Citizens with Disabilities. I think the gentleman has undoubtedly correctly represented Dr. Bowe's position, but is he familiar with the resolution adopted by the American Coalition of Citizens with Disabilities?

Mr. HORTON. I do not have a copy of that. Dr. Bowe sent this telegram on the 5th of June, and I received it in my office on the 6th. I have no contrary information other than what he says.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(At the request of Mr. BROWN of California, and by unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. If the gentleman would yield further, I have a copy of the resolution which was adopted by the American Coalition of Citizens for Disabilities at their house of delegates meeting at Houston on May 20. I am not sure that it contradicts what Dr. Bowe says, but I would like to quote from it, if I may. It says: "That the American Coalition of Citizens with Disabilities supports a proposed Congressional Amendment for Assistant Secretary for the Handicapped in the Department of Health and Human Services."

Mr. HORTON. I think the gentleman is perhaps misreading it. I think what they are talking about is in the Department of Education. That is what they want, and that is what this bill provides. All I can go by is the telegram that I received signed by Dr. Bowe who starts out saying, "On behalf of the American Coalition of Citizens representing more than" and so forth. He continues "we urge you to vote" for the bill "to establish a Cabinet-level Department of Education. We strongly support the inclusion of vocational rehabilitation and related programs for the handicapped in the Department. * * *"

Mr. BROWN of California. Mr. Chairman, will the gentleman yield further?

Mr. HORTON. Yes.

Mr. BROWN of California. The resolution adopted at the convention of the Coalition actually has the additional language "either in the Department of Health and Human Services or the proposed Department of Education."

Mr. HORTON. The gentleman left that but no one here should fail to understand that the overwhelming majority of groups concerned about the handicapped do not favor the Miller amendment. They favor being part of the new Department of Education. This is a gray area in part because we are dealing with a mix of medical and educational functions, and I understand particularly there are those who are on the medical side who for one reason or another favor staying with HEW. But clearly the bulk of these organizations—and this includes the Coalition of Citizens, the national umbrella organization, it includes the organizations for the blind, the organizations for the deaf, the State Administrators of Vocational Administration—clearly favor being in the new Department. They favor it for some very concrete, solid reasons, and among these is the fact of increased emphasis which is important to these groups. There is no question that while the people who are in charge in HEW now are good, dedicated people doing a fine job, they have not been receiving the kind of attention there that this kind of a program deserves.

So I would urge my colleagues, with all due respect, to defeat the amendment offered by my good friend, the gentleman from California.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be pleased to yield to the gentleman.

Mr. MILLER of California. I thank the gentleman for yielding.

ler amendment. No. 2, the bulk of the handicapped groups, the people who are most concerned, do not favor the amendment. I think that is very clear evidence of why it ought to be moved to the new Department.

Mr. MILLER of California. Will the gentleman yield?

Mr. SIMON. Yes.

Mr. MILLER of California. I would debate that evidence for the gentleman, but we have both stated who is for what.

Mr. ANDREWS of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from North Carolina.

Mr. ANDREWS of North Carolina. I thank the gentleman for yielding.

Mr. Chairman, all of the information I have on the subject, which is considerable, is in complete agreement with the statement made by my friend, the gentleman from Illinois (Mr. SIMON). I would like to associate myself with his remarks and encourage support of his position.

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Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, I would not normally intervene in this debate. However, for the past several years in the Committee on Science and Technology I have been involved out.

Mr. BROWN of California. No, I am merely trying to illustrate the point that the organization at its annual meeting took a position in support of either department as long as it contained an assistant secretary.

Mr. HORTON. Then what the gentleman is saying is that he agrees with what is contained in my telegram.

Mr. BROWN of California. No, I am saying that Dr. Bowe is expressing his own opinion, not the opinion of the organization.

Mr. HORTON. From the language the gentleman just read, it would indicate to me that they adopted a resolution which would urge that this be included in the Department of Education; if not included in the Department of Education, then in HEW. What I am urging for here is to have it included in the Department of Education, and the gentleman is making it appear that they had a resolution that would indicate that they did not want it in the Department of Education.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have the honor to have succeeded my colleague, the gentleman from Indiana (Mr. BRADEMAS) as chairman of the Select Committee of Education which includes this area of jurisdiction of the handicapped. I regret to be opposing my good friend, the gentelman from California (Mr. MILLER)

I would like to know what educational functions are involved that justify the transferring of a very heavily medically emphasized program to the Department of Education. I do not understand, outside of special education which I concede should be transferred, what would be left in terms of educational functions to be transferred to the Department of Education.

Mr. SIMON. If one picks almost any disability, there is a medical portion of that rehabilitation, but the bulk of the work is educational in nature, and that is whether someone has lost a leg or lost an arm, or is blind or deaf, or what the situation might be.

Mr. MILLER of California. If the gentleman would continue to yield, the point is there is no Federal program to carry out those educational functions. The programs which carry out the restorative health care of disabled individuals is through the social security program, title 19, title 20, which comes out of Social Security which is in HEW, which works with a compatible situation with RSA. RSA has not worked properly, let us face it. But to suggest they are going to pack up everybody's bag and move them down to the Department of Education will affect the handicapped individuals of this country, because the programs are there through the HEW budget; they are not in the Department of Education as it is now created.

Mr. SIMON. I would say the answers to that are two. No. 1, the State administrators of these vocational rehabilitation programs now do not favor the Mil- with a very small program which the committee has maintained for research on the problems of the handicapped. In that capacity I have had the opportunity to meet many of the people who are deeply involved in the problems of the handicapped and in rehabilitation services. I have assisted in developing a research program using the facilities of the Federal Government, I might say under the tutelage of our very dear former colleague, Tiger Teague, who took a lifetime interest in this subject.

I am completely at a loss to understand the statement made by my good friend from Illinois (Mr. SIMON) with regard to where the bulk of the support for this proposal lies, as far as the handicapped community is concerned.

I sought to clarify this situation by reading the resolution that was adopted by the American Coalition of Citizens With Disabilities and very frankly their position is ambivalent. They support either position which will give the greatest visibility to the problems of the handicapped. What they really want is an assistant secretary dealing with the handicapped and with vocational rehabilitation and they would support this in a Department of Education if that is where they had to go to get it or they would support it in the present Department of Health, Education, and Welfare. Their position, as expressed in the resolution adopted at their convention, is not in opposition to remaining in the Department of Health, Education, and Welfare. Their primary concern is, as I stated, with an elevation of the awareness of the American public to the problems of the handicapped, as evidenced by the designation of an assistant secretary.

Now I note that the Secretary of Health, Education, and Welfare, has stated rather strongly in a letter to the chairman of the full committee, our distinguished colleague from Texas, that he opposes the shift of the Vocational Rehabilitation Services and the Institute for Research on Problems of the Handicapped, which is also included in the bill, to the new Department of Education. He objects to these being moved to the Department of Education and he makes a very strong and convincing case for it in a 3-page letter which I am sure the chairman of the full committee has read in great detail.

Very honestly, knowing what went into the development of this Institute for Research on Problems of the Handicapped, I have no remote idea of what justifies moving that institute to the Department of Education. It is not an educational function, nor is most of the work done in the Vocational Rehabilitation Administration. It is far more closely allied to similar work being done in the Social Security Administration and should remain in the Department which has that function.

I will not attempt to identify the large numbers of organizations which have written to me in opposition to moving this vocational rehabilitation function to the Department of Education. My good friend and colleague from California listed most of them although not all of them and I have a host of letters here the research activity of the institute is primarily medical, technological, and psychosocial. Very little of the research mission of the institute is actually related to education although the rehabilitative services for handicapped children obviously are involved. Yet the point is we have then transferred special education, which is proper, to the Department of Education but not the institute and not the Rehabilitative Services Administration.

I think clearly Dr. Rusk who, with Mary Switzer, started out on this road to rehabilitative research, medicine, and restorative health which makes the case that that is not the goal of RSA.

Mr. BRADEMAS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

In doing so, Mr. Chairman, I want to express my very high regard for the gentleman, one of the ablest members of the Committee on Education and Labor. I dislike having to disagree with him on this occasion.

Mr. Chairman, I speak as one who had for 10 years the privilege of serving as chairman of the Select Education Subcommittee of the Committee on Education and Labor, the subcommittee now so ably chaired by the gentleman from Illinois, (Mr. SIMON).

tional coalition of national, State, and local organizations of and for the handicapped representing over 7 million persons; the National Rehabilitation Association, the professional association of persons involved in rehabilitation; the executive committee of the Council of State Administrators of Vocational Rehabilitation, the association of State agencies administering rehabilitation; the Council for Exceptional Children, the professional association of persons involved in special education; the National Federation of the Blind, a major association of blind citizens; plus the American Deafness and Rehabilitation Association; National Association of the Deaf; National Council of Rehabilitation Education; National Council of State Agencies of the Blind; and the American Association of Workers for the Blind.

Now, Mr. Chairman, let me address myself to the issue raised by the amendment of the gentleman from California (Mr. MILLER).

Mr. Chairman, I rise in opposition to the amendment.

The committee bill recommends the creation of an Assistant Secretary for Special Education and Rehabilitation.

The bill provides for the transfer to that office the following functions: The Rehabilitation Services Administration and the National Institute for Handicapped Research.

The basic purpose of the vocational rehabilitation program is to provide a comprehensive program of rehabilitation services for physically and mentally which were sent to me indicating the position of various groups concerned with vocational rehabilitation on this matter.

I suspect there are some educational groups who would like to grab as much of any related function as they could for this new department. That is a normal bureaucratic exercise and I can understand and sympathize with it. However, very frankly, those concerned with a total rehabilitation of the handicapped are not interested in making this change.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. MILLER of California and by unanimous consent Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield to me?

Mr. BROWN of California. I will be glad to yield to the gentleman from California.

Mr. MILLER of California. Thank you for yielding.

Mr. Chairman, is it the understanding of the gentleman that the bill sent up by the administration did not propose to transfer RSA and the Institute on Rehabilitative Medicine?

Mr. BROWN of California. The gentleman is precisely correct. The bill did not in its original form from the administration. The letter from the Secretary indicates this.

Mr. MILLER of California. Is the gentleman aware of a letter from Dr. Howard Rusk who is clearly, I think, one of the most preeminent individuals involved in rehabilitative medicine? He says that

As chairman of that subcommittee, I had also the privilege of having been the sponsor in the House of the rehabilitation services amendments as well as of the National Institute for Handicapped Research.

It is, therefore, from that background that I must speak against this amendment.

At the outset, Mr. Chairman, and before I indicate some of the reasons for my opposition to the amendment of the gentleman from California, I want to say something of a matter which has been the subject of some debate here this afternoon, the matter of the position of Dr. Frank Bowe, of the American Coalition of Citizens With Disabilities.

For the information of my colleagues, I must indicate that I have just had a telegram from Dr. Bowe, dated June 12, 1979, in which he says:

> We strongly reaffirm nationwide desire of disabled people for office in new Department. Disregard rumors to the contrary.
>
> Dr. FRANK BOWE,
> *American Coalition of Citizens*
> *of Disabilities.*

May I also, Mr. Chairman, address myself to another matter that has come up; namely, the groups supporting that provision of the committee bill which provides for transfer to the new Department of Education of the Rehabilitation Services Administration and the National Institute for Handicapped Research.

Among the groups supporting the retention of these programs in the Department of Education are the following, who support the bill: The American Coalition of Citizens with Disabilities, the na-

handicapped persons whose disabilities substantially impeded employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

The largest program transferred under the bill is the basic State grant for rehabilitation service program. These grants to States are used to provide the following services: Counseling, referral, job placement, vocational and training services, interpreter and reading services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

The new Institute for Handicapped Research will address research pertaining to all areas of the handicapped. The Institute would in effect be addressing those areas not handled adequately by present research programs and is not intended to overlap with the programs of mental and health research conducted by NIH.

These two programs—Rehabilitative Services and the Institute—would be joined with the Bureau of the Handicapped, presently located in the Office of Education.

Mr. Chairman, there are several reasons I believe the vocational rehabilitation program administered by RSA should be joined with the programs administered by BEH.

The first reason is that there is a natural relationship between the programs that BEH and RSA administer. An examination of each program description will indicate that both have as their common mission improving the ability of handicapped individuals to adapt to society. I believe this relationship can be strengthened by joining these two programs and thereby for the first time, providing a continuity of service from preschool through adulthood.

The committee was wise to see that both programs address basically the same needs but to clearly different age categories. Although the Bureau for the Education of the Handicapped is primarily educational in its purpose and provides services for children, a significant portion of its programing responsibility is to support training of adults who in turn will train handicapped people. Programs such as the special education manpower development project illustrate this point. The regional vocational, adult, and postsecondary programs further illustrate the various age groups served by the programs under the Bureau for the Education of the Handicapped. On the other hand, the Rehabilitation Services Administration does not restrict itself to one age group either. RSA also trains nonhandicapped individuals of any age who in turn train handicapped individuals and provides for model preschool programs for the handicapped.

The committee, in placing vocational rehabilitation programs in the same office with programs concerned with general education of the handicapped, acknowledges the need for a continuum of services for the handicapped from birth through adulthood.

Dr. Frank G. Bowe, director of the of economic status. Thus this new realinement will better meet the needs of the handicapped as they relate to rehabilitation and education.

Mr. Chairman, in conclusion, I again quote from Dr. Bowe's correspondence to me on this matter:

> First, services for disabled people have suffered greatly from a severe lack of visability, fragmented and deeply buried as these programs have been. There is every reason to believe the structure proposed would make a truly historic breakthrough for disabled Ameicans, of whom there are currently fully 36 million.
>
> Second, educational and rehabilitative services for disabled people have been poorly coordinated on the federal level. A few weeks ago, HEW held the first meeting in ten years of the people responsible for coordinating special education, vocational education, and vocational rehabilitation programs for disabled youths and adults. The purpose of the meeting was to attempt to develop similar plans for service delivery within the three streams of services. That this occurred in 1979 speaks for itself.

Mr. Chairman, in summary, the committee bill represents, a major opportunity to elevate the status of Federal programs for the handicapped and to further the common goals of programs for the handicapped. The bill will mean substantial improvement in this coordination of programs concerning both the education and the rehabilitation of handicapped persons.

Mr. Chairman, as chairman of the subcommittee with jurisdiction over both the education of handicapped children and the rehabilitation program for the

I appreciate the gentleman bringing this up. I hope the committee will go along and reject the amendment of the gentleman from California.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. MILLER).

The question was taken; and the chairman announced that the noes appear to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 265, not voting 21, as follows:

[Roll No. 216]

AYES—148

Akaka
Anderson, Calif.
AuCoin
Bailey
Beard, R.I.
Beard, Tenn.
Beilenson
Bennett
Bethune
Boggs
Boland
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burton, John
Burton, Phillip
Carr
Clausen
Clay
Evans, Ga.
Fazio
Fenwick
Fish
Frenzel
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Gore
Gradison
Gray
Guyer
Hall, Tex.
Hammerschmidt
Hanley
Harkin
Hefner
Heftel
Hightower
Howard
Huckaby
Miller, Ohio
Mitchell, Md.
Moakley
Moffett
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nolan
Nowak
Obey
Pashayan
Patterson
Paul
Preyer
Rangel
Rhodes
Richmond
Rinaldo
Roe
Rosenthal
Rostenkowski
Roth

American Coalition of Citizens with Disabilities, has communicated to me the following:

> This new structure makes eminently good sense to us. It distinguishes clearly between goal-directed programs aimed at enhancing the potential of disabled persons and entitlement programs aimed at protecting the income and medical needs of persons who are dependent upon others for partial or full support.

Another reason, Mr. Chairman, I favor placing vocational rehabilitation in the new Institute with the programs of the Bureau of the Handicapped is that for the first time there would be the visibility necessary for the handicapped to compete for scarce dollars.

Third, Mr. Chairman, placing these programs in the new Department will allow for them to assign more emphasis on training. Since this training is related to educational concerns, the overall goal is to improve the ability of handicapped individuals to adapt to society. It is my belief that the goal of helping handicapped individuals become productive and to live with independence and dignity the same independence and dignity of nonhandicapped individuals—is much more compatible with the concerns of education than it is with health and welfare. Handicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of income. Health and welfare, on the other hand as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis

last decade, I would observe that the explanation and the reasoning behind the gentleman's amendment are not founded in fact. It is obvious that there is a misunderstanding of what the rehabilitation program is primarily all about as well as the purpose of the National Institute of Handicapped Research. The explanation which has been given for the amendment does not represent either what Congress intended or enacted into law. The amendment does not represent the purposes for which these programs were enacted. The amendment reflects a misunderstanding of the goal of the Rehabilitation Service Administration of the purpose for the creation of a new National Institute of Handicapped Research, and of the functions of the Bureau for Education of the Handicapped. Because of this misunderstanding as well as the reasons I have already given, I urge my colleagues to join in opposing this amendment.

☐ 1700

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Chairman, I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks. I had the pleasure last year in the Committee on Government Operations to offer the amendment or to include it. At that time I not only talked to the doctors the gentleman mentioned and the associations, but many of the people came in on wheelchairs and other, that really felt strongly they should be given this visibility.

Coelho
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Daschle
de la Garza
Dellums
Derwinski
Dickinson
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel

Jones, N.C.
Jones, Okla.
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Lederer
Lehman
Leland
Levitas
Lewis
Livingston
Lowry
Lujan
Lungren
McClory
McCormack
McDade
McDonald
Maguire
Markey
Mathis
Mavroules
Mikulski
Miller, Calif.

Rousselot
Roybal
Schroeder
Sebelius
Seiberling
Shannon
Shuster
Skelton
Snowe
Snyder
Solarz
Stark
Studds
Symms
Thomas
Van Deerlin
Walgren
Watkins
Waxman
Weaver
Weiss
Wilson, Tex.
Yates
Young, Fla.

NOES—265

Abdnor
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews,
  N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Bedell
Benjamin
Bereuter
Bevill
Biaggi

Bingham
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brooks
Broyhill
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable

Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Devine
Dicks
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Okla.
Erdahl
Evans, Ind.
Fary
Fascell
Ferraro
Findley
Fisher
Fithian

Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gingrich
Ginn
Gonzalez
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hance
Harris
Harsha
Hawkins
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kramer
Lundine
McCloskey
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikva
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth

unless he or she was an elementary, secondary, or postsecondary education teacher or administrator during at least eighteen of the twenty-four months preceding the date on which his or her nomination is submitted to the Senate for confirmation.", and

In line 21, strike out "203" and insert in its place "204".

On page 61, in line 23, strike out "204" and insert in its place "205".

On page 62, in line 71, strike out "205" and insert in its place "206"; and

In line 16, strike out "206" and insert in its place "207".

On page 63, in line 3, strike out "207" and insert in its place "208";

In line 12, strike out "208" and insert in its place "209"; and

In line 22, strike out "209" and insert in its place "210".

On page 64, in line 4, strike out "210" and insert in its place "211";

In line 8, strike out "211" and insert in its place "212"; and

In line 15, strike out "212" and insert in its place "213".

On page 67, in line 3, strike out "213" and insert in its place "214".

On page 52, in the table of content, after section 202, insert "Sec. 203. Qualifications of officers." and renumber sections 203 through 213 as section 204 through 214, respectively.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, the purpose of this amendment is to do one pointment. In other words, it puts teachers, real educators, in charge of the Department of Education. That is what it should be all about. It should not be only a Department of Education; it should be a Department by educators. That is what we can achieve if we adopt this amendment.

It also seems to me to speak to a very key issue that has arisen in the course of this debate, and that is whether or not this Department is going to be a captive of a couple of special interests that are pushing for the adoption of the Department. We have heard over and over again about NEA and all of the power that it is wielding on this bill. One of the concerns has been that certain key people in NEA will simply transfer from their NEA offices over to the new offices in the Department of Education. This amendment will prevent that. This amendment will assure that you will not have special interest groups simply transferring over. What we will have is educators coming directly from the schools into the Department. In addition, I think that it also speaks to the problem of all of the people who now staff that Office of Education we have heard so many things about, who are not going to be in the uppermost reaches of this Department. We are going to have again teachers who staff the Department. I think that is as it should be.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

1370

1377

Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Luken
Regula
Reuss
Ritter
Roberts
Robinson
Rodino
Rose
Royer
Rudd
Russo
Sabo
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—21

Addabbo
Anderson, Ill.
Bolling
Conyers
Davis, S.C.
Dingell
Evans, Del.
Flood
Forsythe
Goldwater
Goodling
Hansen
Holland
Holtzman
Hughes
Johnson, Calif.
Runnels
Treen
Wilson, Bob
Wilson, C. H.
Zeferetti

☐ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Conyers for, with Mr. Johnson of California against.

Mr. Runnels for, with Mr. Dingell against.

Messrs. COTTER, GIAIMO, MOORHEAD of California, and SYMMS changed their vote from "no" to "aye."

Mr. STACK changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows.

Amendment offered by Mr. WALKER: On page 59, after line 19, insert the following new section:

"QUALIFICATIONS OF OFFICERS

"SEC. 203. No individual may be appointed to an office created by section 201 or 202

of the things which I think most educators have expressed that they want done by any action that we take with regard to the Department of Education. Many of the Members who have talked to the teachers and administrators in their districts about this Department have heard over and over and over again from them that what they want is a Department that will be responsive to the needs of education, that will recognize what really goes on within the schools, that will recognize the real educational problems there, and speak to those problems.

In the course of this debate, I submit to the Members that we have heard over and over again from the proponents of this Department just how bad the Office of Education really is, how it has promoted programs which have not been in the best interest of education, how it has been a bureaucratic nightmare, how the red tape piles up and up and up, and how this office has not served education at all. So it seems to me that the educators who are making that point to us that the Office of Education has not served their needs should have better than that from a Department of Education. And the way we can assure that we do get people responsive to education within the new Department is to put real live educators in the Department. That is what this amendment is all about. This amendment simply says that in order to qualify for one of the uppermost posts in this Department you must have been in the schools either in higher education or in elementary or secondary education for 18 of the 24 months preceding the ap-

Mr. KAZEN. As I understood the gentleman's amendment, it said that they should be educators from the classrooms in the last 18 out of 24 months before their appointment. Does the gentleman mean actual schoolteachers, or does he also include administrators who may not have been schoolteachers?

Mr. WALKER. I also include administrators in the amendment.

Mr. KAZEN. I thank the gentleman.

Mr. WALKER. Anybody who has been serving as an administrator in this time. In other words, we could have an administrator who has been a college professor.

Mr. KAZEN. I did not understand that. I thought the gentleman was only including teachers, actually those who were in the classroom, and not administrators.

Mr. WALKER. I would certainly say to the gentleman that I would hope that they would use the power granted by this amendment to appoint teachers to the post, but it also includes administrators.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. HORTON. I do not find any language in the amendment that was handed me about schools. It does not say anything about schools. The gentleman said that they have to be elementary, secondary or post-secondary education teachers. He did not say anything about schools. I do not find the word "schools."

Mr. WALKER. I would say to the gentleman that teachers and administrators work in schools; therefore, I would assume they would have to come out of schools.

Mr. HORTON. Does the gentleman mean they have to work the whole 18 of the 24 months before in that position, before they are qualified for this position?

Mr. WALKER. They would have had to spend 18 out of the last 24 months as a teacher in the schools.

Mr. HORTON. In order to qualify for one of these jobs?

Mr. WALKER. In order to qualify for one of these jobs, yes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I would think the gentleman would be including the Inspector General and the general counsel—all must be teaching school for the last 18 months or they could not be the lawyers to represent the Department. It would fly in the face of the ability of the Secretary of Education to run the Department as efficiently as possible. Very seldom do people employ lawyers based on their having taught school for the past 18 months. The gentleman might want to do that, but it should not be a requirement.

To impose an artificial qualification such as this would hamstring the Secretary in his efforts to get the best possible administrators for the education program. I understand the intent—I think I understand the intent—behind the amendment. I would not want to presume on the gentleman's judgment, on his motives—God knows, I would not want to do that—but I would agree that the Secretary should have the benefit of the teachers and of administrators and other professional educational folk. But staff this Department. That would be perfectly acceptable under this particular amendment, and it would, I think, clear up one of the objections of the chairman anyhow.

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 28, noes 374, not voting 32, as follows:

[Roll No. 217]

AYES—28

Abdnor
Ashbrook
Bafalis
Brinkley
Brown, Ohio
Dannemeyer
Devine
Dickinson
Dornan
Erlenborn
Findley
Gaydos
Grisham
Harsha
Kelly
Lent
Livingston
Lungren
Paul
Regula
Rousselot
Shuster
Solomon
Stangeland
Taylor
Thomas
Walker
Young, Fla.

NOES—374

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten

1372

1379

I do not think it would serve the new Department or any department well to have this kind of artificial restraint on employment to qualify for the position.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I think education is too important to entrust to educators alone and particularly just practicing teachers alone. Even though I oppose this bill, I think the amendment should be defeated.

What about school administrators? What about managers generally? It seems to me that the kind of positions talked about in this legislation require managers as well as people who are interested in education, as well as classroom teachers. I think it would be utterly inflexible, and I think those who oppose this bill should oppose the amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the gentleman raises an important point, particularly with regard to the counsels. But as I recall, we had a very distinguished counsel, Archibald Cox, who came directly out of law school, out of the far-reaches of Washington.

☐ 1730

I do not see any reason why we could not bring law school teachers in to help

Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm

Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dicks
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain

Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee

Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.

Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner

Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—32

Addabbo
Anderson, Ill.
Baldus
Bolling
Conyers
Davis, S.C.
Deckard
Dingell
Evans, Del.
Flood
Forsythe

Goldwater
Goodling
Hagedorn
Holtzman
Hughes
Jacobs
Johnson, Calif.
Nowak
Obey
Runnels
Scheuer

Seiberling
Stockman
Treen
Waxman
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Zeferetti

☐ 1740

Mr. HYDE and Mr. ROYBAL changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 58 after line 6, insert the following new section:

PROHIBITION AGAINST THE WITHHOLDING BY THE SECRETARY OF FUNDS TO FORCE RACIAL-ETHNIC QUOTA BUSING

SEC. 201(c). The Secretary and the Department may not withhold any funds, grants, contracts or awards otherwise authorized to be granted because of failure to transport students or teachers (or to purchase equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or because of the failure to transport students or teachers (or to purchase equipment for such transportation) in order to carry out such a plan in any school or school system.

☐ 1750

POINT OF ORDER

Mr. BROOKS. Mr. Chairman, I want to reserve the right to make a point of order on the amendment. I have not read it, but I am suspicious of it.

Mr. HORTON. Mr. Chairman, I will make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HORTON. Under the test imposed by rule XVI, clause 7, it is not germane.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. DORNAN. Yes, Mr. Chairman. Just very briefly, this would appear to be redundant, given the overwhelming vote yesterday against busing. However, yesterday's language clearly states that the Secretary or the new department could not issue any order demanding busing. However, we have seen Federal judges throughout the land in the last decade preempt the authority of the legislative branch of our Government. Therefore, I want to make sure in clear and simple language to state that regardless of whatever orders come from without the powers of Congress that the Secretary

tion of this Department, and, therefore, it should be ruled not germane.

Mr. FASCELL. Mr. Chairman, I would like to add something to the point of order, if I may.

It occurs to me that the manner in which the amendment is written, Mr. Chairman, is limitation of the jurisdiction of a court of competent jurisdiction. It goes far beyond the scope of this bill and not only affects the court of competent jurisdiction, but in effect tells and directs the Secretary of Education to ignore and disobey the orders of the court.

Mr. DORNAN. Mr. Chairman, I have a final thought. On page 56 of H.R. 2444 we say in line 12 "(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;".

All I am doing with this amendment is merely limiting the scope of the Secretary of this new Department of Education, and the statement that I just read increases; the accountability of this Federal program to the Congress.

The CHAIRMAN (Mr. NEDZI). The Chair is prepared to rule.

The Chair would point out to the gentleman that the matters alluded to in his final argument pertain to title I. The amendment which the gentleman has offered is to title II which deals with the structure of the new Department of Education. Title II does not go to the basic question whether substantive educational programs should be retained and to the purposes for which funds under those programs may be expended.

bigger budgets and staffs could achieve. Now we are discussing the assistant secretaries in DOE II, and once again I am preplexed by the contradictions.

My amendment would erase one of the contradictions in section 203 of the bill. There are to be six assistant secretaries with a variety of responsibilities, but with similar authority under section 202 of the bill. Along comes section 203 and creates one more assistant secretary, but this time with a detailed set of expansive powers and the authority to hire legions of attorneys, and to contract out for services.

We should take some time to consider whether we want to have a semiautonomous Office for Civil Rights within the Department of Education. I know that extensive discussion has occurred in the Government Operations Committee on this issue and that they decided to go with the present language in the bill. I wish to take exception to their decision. In many instances we have seen blatant abuse of the civil rights authority within HEW. Especially with title IX enforcement, there has been a disregard for local control of education and of local intelligence on matters of sexual equality. The examples of banned father-son picnics and of equal numbers of trophy cases for boys and girls athletics immediately come to mind as examples of how the Civil Rights Office has used and abused its powers in the past. I do not think expanded authority and expanded staff is any way for this Congress to signal its criticism of these activities.

would never be able to withhold any funds or grants or contracts or awards that were otherwise authorized to be granted under the Department of Education. It is that simple. It is just the other side of the coin of issuing an order to reject anyone else's saying that funds must be withheld that this Congress had deemed to be proper funding for the granting of moneys.

The CHAIRMAN. Does the gentleman from Texas (Mr. BROOKS) desire to be heard on the point of order?

Mr. BROOKS. Yes, Mr. Chairman. I make the point of order on the amendment under rule XVI, clause 7, requiring that amendments be germane to the subject under consideration. To be germane, the amendment must have the same fundamental purpose of the bill under consideration. The purpose of H.R. 2444 to establish a Department of Education deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants or employees that are not now authorized by law are not consistent with that organizational purpose and, therefore, should be ruled out of order.

The CHAIRMAN. Does the gentleman from New York (Mr. HORTON) desire to be further heard on the point of order?

Mr. HORTON. I just wanted to make the point that this is in the section that has to do with the establishment of the Department and that this is a matter that is not within the jurisdiction of the Committee on Government Operations, and it is not involved in the organiza-

Accordingly the Chair sustains the point of order.

Mr. DORNAN. I thank the Chairman.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Strike out all from line 23 on page 60 to line 21 on page 61, inclusive.

Mr. ASHBROOK. Mr. Chairman, for about an hour this afternoon I listened to my colleague, the gentleman from New York, and my colleague, the gentleman from Texas, very carefully delineate the responsibilities of these six assistant secretaries that will be created. In the amendment offered by the gentleman from New York (Mr. GARCIA) as amended by the gentleman from Texas (Mr. DE LA GARZA) they indicated they did not want specific responsibilities for assistant secretaries. Yet if we look at page 60 and page 61, starting on line 23 on page 60, going all the way through the remainder of section 203 on page 61, we see something rather interesting. We see the Assistant Secretary for Civil Rights, who not only would have a specific responsibility, but he would have powers far beyond any of the authority or powers granted to the other assistant secretaries.

Mr. Chairman, throughout the consideration of this bill I have heard conflicting statements about what this new Department is going to do. I have heard how it will save money and consolidate programs, and I have heard about new focuses and new prominences that only

My amendment would eliminate those powers and authorities vested in the Office of Civil Rights that are not given to the other assistant secretaries of DOE II. I urge all my colleagues who feel as I do that the harrassment of local schools by the Federal Government has reached a point where we must act to rein it in.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Texas.

Mr. BROOKS. I would like to say to my distinguished friend on another subject that I have just been discussing—and I had hoped to get my arm fixed later; it needs a simple splint.

Mr. ASHBROOK. Is it being twisted, or what?

Mr. BROOKS. I do not think the fracture is too bad. It is not a double fracture. It is not in the elbow.

Mr. ASHBROOK. I saw the Speaker. I thought maybe it could be twisted.

Mr. BROOKS. That is the problem. It is going to be all right.

The problem is that I believe I would want everybody to know that I have agreed that we would rise tonight at 9 o'clock. I did not want that to be a surprise to anyone. I want the Members to know now, and I am sorry to impinge on the gentleman's time. I will get him a little extra time, if possible. We will return tomorrow and from now on stay as long as is necessary. I look forward to the continuation of these wonderful amendments.

Mr. ASHBROOK. One of which is being offered right now, the gentleman might add.

□ 1825

Mr. BROOKS. It fits that category, if the gentleman would yield.

Mr. ASHBROOK. Well, maybe my friend from Texas would like to tell us why he thinks we need an entire section for an assistant secretary for civil rights in addition to the six assistants. Why we should give him broad authority to select, appoint and employ, authority that none of the other 6 assistant secretaries have, let him contract for outside consultants, something none of the other assistant secretaries have.

It looks to me like that is a wonderful section and requires a wonderful amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. I would hope my friend from Texas, consistent with his remarks on other amendments, not wanting to place responsibilities in assistant secretaries, would support my amendment which seems to fit perfectly in the debate of my gentleman friend from Texas and the chairman and ranking member from New York.

Mr. BROOKS. Mr. Chairman, in reply to my distinguished friend, let me say I do not share his view. I am definitely opposed to the amendment. I think that an assistant secretary for civil rights should have the right to make those contract authorities. I think they need it, as somebody said, just to keep an eye on further question how we have to create an assistant secretary for civil rights who is separate and unequal, separate and unequal from the other 6 assistant secretaries. Why my friend from Texas feels it is necessary to give him the broad power to select the point to have outside contracting and others that the other 6 secretaries do not.

Mr. BROOKS. We want to understand, Mr. Chairman, he is not a grant administrator. He has a separate responsibility, a separate duty, a separate obligation and we trust he will exercise that properly and fairly in the public interests.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. ROSENTHAL asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Chairman, I want to again restate my opposition to this bill and I would expect that sometime in the not too distant future it shall be defeated. If by any chance, which I do not feel is a real chance, but if by any chance I am wrong and if this Department does, in fact, come into being I think it is important this amendment be defeated and this language stay in the bill.

This particular language was offered by the gentlewoman from Illinois (Mrs. COLLINS) to a large series of important amendments that I had offered both last year and again this year.

cated for the future that if you wanted this office to work, this assistant secretary for civil rights to work, you had to protect them from the budgetary sniping of other people dealing with the educational component in new departments.

I myself think that the ability to enter into contracts and audits and studies and analyses are absolutely essential if you want to make the important function meaningful.

I would urge all of my colleagues, all of the members of the committee, those of you who are for this bill and those of you like myself who are against this bill, to resoundingly defeat this amendment.

Mr. FASCELL. Mr. Chairman, would the gentleman from New York yield?

Mr. ROSENTHAL. I shall be happy to yield.

Mr. FASCELL. While I support the bill and the gentleman does not I certainly agree with the gentleman with respect to his comments on this particular amendment. I think we should also make it quite clear that while there is a separate function here with regard to civil rights and this Assistant Secretary, he is placed within the Department under the Secretary of Education and that for administrative and support functions the line command still remains the same, but from the standpoint of the effective independent enforcement of civil rights as it relates to education we feel that this is the better approach.

Mr. ROSENTHAL. Mr. Chairman, I think it is probably the only way to have an efficacious enforcement in a civil the other secretaries. There is some reason for that because over the years we have had significant and serious difficulties in seeing that a large segment of the people of the United States gets equal rights under the law, that they are entitled to under the Constitution. We have been hundreds of years getting around to giving it to them. They are now beginning to earn it, appreciate it and utilize it and I do not believe we should downgrade the effort this country and this Congress has made and that I have supported for many years as an opportunity to give these people, these citizens who are just as loyal as you or as me, who have been overseas, have fought with us, who do all of the things we try to do, who have the same motivations. They are Members of this Congress, they are teachers, they are lawyers. They are all the things we are. They are not any better, they are not any worse, and they need this opportunity to maintain opportunity to participate equally in this country and I am for it. I was for it in the committee and I am for it now and I am against trying to take it out of the bill. I think it would just be a step back and I do not believe this country is stepping back in civil rights in the year of 1979 and I am certainly not going to join in that step if some want to make that effort.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. I appreciate what my colleague says but I would raise a

In response to the inquiry by the gentleman from Ohio, a very valid question, why should this assistant secretary have this unique and unusual authority to act in some ways independent of the secretary? That is a valid question.

The reason is that both the Commissioner of Education and the secretary of the proposed Department of Education, the principal responsibility is the management of the education programs such as they may be and the person charged with enforcement with civil rights responsibility, the enforcement of the civil rights laws found an inhospitable climate both in HEW and very likely would find in this new Department and what they found is that their budgetary proposals, in their proposals to hire additional staff, in their proposals to carry out the functions and responsibilities under their mandate, that the Commissioner of Education, albeit the proposed new Secretary of Education, would be unsympathetic to those budgetary requirements, to those staffing requirements, to those functioning requirements.

Mr. Chairman, the committee I think in good judgment insofar as this responsibility is concerned said, "Let us fortify the person charged with civil rights enforcement with the ability to independently deal with his own budgetary requirements, the ability to hire staff people independently and, in addition, to report independently back to the Congress so that none of these requirements will be short-circuited by the Secretary or the Commissioner of Education."

Mr. Chairman, we have found both in past practices and we have prognosti-

rights program.

Mr. PANETTA. Mr. Chairman, would the gentleman from California yield?

Mr. ROSENTHAL. I would be happy to yield.

Mr. PANETTA. I thank the gentleman for yielding, Mr. Chairman.

Mr. Chairman, as a former Director of the Office of Civil Rights in the Department of Health, Education, and Welfare I can confirm the need to try to establish some independence on an enforcement mechanism in a department. That is what we are talking about.

Mr. Chairman, this office is responsible for enforcing title VI of the Civil Rights Act. It is an enforcement mechanism. Long ago it was placed in the Office of Education. It was removed from the Office of Education because the interests in education were diminishing the enforcement responsibilities of the office. Now as a separate office within the secretariat, it has the same problems and all of the problems you indicated. I think very strongly if we are going to have title VI, if we are going to have enforcement of title VI it ought to be comparable to what we have in the Justice Department which is a separate Assistant Attorney General for purposes of enforcing civil rights laws.

Mr. ROSENTHAL. Mr. Chairman, I thank the gentleman for his contribution. I again urge the members of the committee to defeat the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

In the opinion of the Chair the ayes have it.

For what purpose does the gentleman from Ohio rise?

Mr. ASHBROOK. Mr. Chairman, I request a recorded vote and pending that I make a point of order a quorum is not present.

The CHAIRMAN. A recorded vote has been demanded.

The Chair will count for a quorum.

□ 1810

The CHAIRMAN. 110 Members are present, a quorum.

PARLIAMENTARY INQUIRY

Mr. BROOKS. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BROOKS. Mr. Chairman, did the Chair state that the ayes appear to have it?

The CHAIRMAN. The Chair will state that the noes had it.

Mr. BROOKS. Good, that does make me feel better.

The CHAIRMAN. That was an error on the Chair's part. That was quite obvious.

Mr. BROOKS. I thought the noes had [illegible]

8

The CHAIRMAN. The Chair meant to announce that the noes had it.

Mr. BROOKS. The gentleman asked for a vote. Do we need one?

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. Ashbrook) for a re-

Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Derwinski
Dicks
Diggs
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish

Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey

Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack

Hollenbeck
Holtzman
Hughes
Johnson, Calif.

Johnson, Colo.
Lundine
Runnels
Treen

Waxman
Williams, Ohio
Wilson, Bob
Zeferetti

□ 1820

Messrs. CAVANAUGH, BROWN of Ohio, ABDNOR, and MOORE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer amendments relating to an Assistant Secretary for Private Education.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Tauke: Page 64, after line 3, insert the following new section and redesignate the succeeding sections and conform the table of contents accordingly:

ASSISTANT SECRETARY FOR PRIVATE EDUCATION

Sec. 210. There shall be in the Department an Assistant Secretary for Private Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting private education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting private education.

Page 58, line 8, strike out "six" and insert in lieu thereof "seven".

Page 99, line 19, strike out "(6)" and insert in lieu thereof "(7)".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that

1378

1385

corded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 65, noes 342, not voting 27, as follows:

[Roll No. 218]

AYES—65

Applegate
Archer
Ashbrook
Badham
Bauman
Butler
Carney
Chappell
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Devine
Dickinson
Dornan
Erlenborn
Evans, Ind.
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hansen
Hinson
Ichord
Jeffries
Kelly
Kindness
Kramer
Latta
Leath, Tex.
Lewis
Loeffler
Lott
McDonald
Miller, Ohio
Montgomery
Mottl
Murphy, Pa.
Pashayan
Paul
Ritter
Roberts
Robinson
Rousselot
Rudd
Satterfield
Sawyer
Schulze
Shumway
Shuster
Snyder
Solomon
Stangeland
Stenholm
Stump
Symms
Taylor
Thomas
Vander Jagt
Walker
Wampler
Whitehurst

NOES—342

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—27

Addabbo
Alexander
Anderson, Ill.
Bolling
Cheney
Conyers
Davis, S.C.
Deckard
Dingell
Evans, Del.
Evans, Ga.
Flood
Forsythe
Goodling
Hanley

the amendments be considered as read and printed in the Record, and that this amendment and all conforming amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, it has been a long day, and many of the amendments that have been offered have been characterized as "frivolous." I hope the Members will give serious consideration to this amendment because I believe it is a serious amendment.

Yesterday, as we began this debate, the distinguished gentleman from Illinois (Mr. Erlenborn) offered an amendment which would have changed the name of this Department to the "Department of Public Education" rather than simply the "Department of Education." While at the time many members of the committee suggested that this amendment was a frivolous amendment, I think it did point out one of the major problems that we have with this new Department.

In speaking against that amendment, the distinguished chairman of the Committee on Government Operations, the gentleman from Texas (Mr. Brooks), suggested that, indeed, in this country there was a major role being played by private education in our educational system.

□ 1830

The unfortunate thing is that in this measure, as it is proposed to us, that very important role is ignored. This measure virtually ignores private education.

In contrast with what we currently have in the Office of Education, where we have a deputy commissioner for private education, there is no official representing private education in this new Department of Education. This amendment speaks to that problem. What this amendment does is establish an Assistant Secretary for Private Education. The duties of the Assistant Secretary were very well described by the gentleman from Texas when he discussed the last amendment relating to the Assistant Secretary for Civil Rights. The gentleman said that, in large part, the Assistant Secretary for Civil Rights keeps an eye on all of the others. In large part, that is what an Assistant Secretary for Private Education would do. But in addition, the Assistant Secretary for Private Education would deal with those measures and regulations concerning private education and the duties designated by the Secretary.

Why is it important that we have a representative for private education in the Department? It is important because it recognizes the reality of our educational system; it recognizes the diversity of that educational system. Right now we have in this Nation about 20,000 institutions devoted to private education—20,000 institutions devoted to private education. While 18,000 of those are elementary and secondary, and they constitute 20 percent of the elementary and secondary institutions in the country. And 1,500 of those institutions are post secondary. Private post secondary institutions amount to over half of the total

Mr. TAUKE. I thank the gentleman for his remarks.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I am troubled always by the idea that the Federal Government is going to control private education. And when one sees a special arrangement allowing for Federal influence which I fear controls private education, I think it is dangerous.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. Tauke) has expired.

(On request of Mr. Horton and by unanimous consent, Mr. Tauke was allowed to proceed for 5 additional minutes.)

Mr. TAUKE. Mr. Chairman, if I could respond, first, to the gentlewoman from New Jersey (Mrs. Fenwick), I, too, am troubled with the problem of the Federal Government being involved in private education. As you look at this measure, you will find in many instances there are suggestions that certain officials will have control over private education. We need to have someone in the Department who looks out after private education, to prevent excessive control. On the other hand, if we do have Federal involvement in private education, we need a spokesman to make certain that that involvement serves the best interests of the private sector.

Mr. HORTON. Mr. Chairman, will the

Mr. TAUKE. Mr. Chairman, the gentleman makes a very excellent point. I certainly did consider the concern you articulate when I proposed this amendment. It is a concern I share. But the alternatives are not satisfactory. One of the alternatives suggested by the proponents of the bill and those who are managing it on the floor was that we place a deputy assistant secretary in the Office of the Assistant Secretary for Elementary and Secondary Education. But certainly because the private sector is so dominant in the post-secondary education field, this is hardly satisfactory.

Others suggested various other alternatives of having an office or something else. But none of them provided either the stature which should be afforded private education or a method by which we could encompass all aspects of private education. I think this is the only proposal which does both of those things.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. Tauke) has again expired.

(On request of Mr. Horton and by unanimous consent, Mr. Tauke was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from New York.

Mr. HORTON. I would like to determine from the gentleman whether or not he feels that an Assistant Secretary for Private Education would have adenumber of post secondary institutions in this country. Over 7.5 million students are educated in private institutions. I do not think we can ignore private education in this bill. I urge you to support this amendment in order to insure that the proper role of private education is recognized.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I want to congratulate the gentleman in the well on this amendment. The fact that the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) was not accepted, which would have named the Department the Department of Public Education, does not mean by any means that the interests of private education will be unaffected by this new Department of Education. The gentleman's amendment to establish an assistant secretary to deal with the interests and the concerns of private education I think is a very essential safeguard to the interests of those institutions. The diversity of education in this country, particularly that provided by private education, is absolutely vital. The workings, the authority carried out by the Department of Education in future years inevitably are going to affect these interests and, therefore, I think it is very important that this provision for an assistant secretary to provide surveillance of the interests of private education be adopted. I thank the gentleman for offering this amendment.

gentleman yield?

Mr. TAUKE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, one of the problems that I have with the gentleman's amendment is the same that I faced when the gentleman from New York (Mr. GARCIA) offered his amendment, which was to establish another assistant secretary for that particular purpose. Now here the gentleman is asking that the number of assistant secretaries be increased by one, or to seven. In other words, there would be created a new assistant secretary who would be responsible for this private education. In that correct?

Mr. TAUKE. That is correct.

Mr. HORTON. Now my concern is that we are adding to the number of personnel. What we have tried to do in this bill is to limit personnel. I understand that there is a need to be concerned about private education, about the bilingual education programs, which was the subject of the amendment offered by the gentleman from New York (Mr. GARCIA). But the problem that I have is the creation of another assistant secretary for this particular purpose. The concern that I have is that it is going to emphasize and perhaps create more problems with private education than if one of the assistant secretaries already authorized in the bill would have this responsibility.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has again expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 1 additional minute.)

quate functions and responsibilities to occupy him full time?

Mr. TAUKE. As the gentleman from Texas so adequately indicated before, when we were talking about the Assistant Secretary for Civil Rights, the Assistant Secretary would keep an eye on the other secretaries and the activities throughout the Department because all of those activities relate to private education. I think that in itself would be a very full-time job. But in addition, the Assistant Secretary would have those other duties delegated to him or her by the Secretary. Moreover, the Assistant Secretary would have the responsibility of serving as something of an advocate or watchdog for private education in the Department. I think the workload of the current deputy commissioner of education in the Office of Education, the workload of that current office, is certainly heavy enough to compel the establishment of a similar office in this Department.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that I am convinced by the gentleman's arguments and particularly by the fact that this is going to be an advocacy and constructive office for private education and not one aimed at greater restrictions and controls.

Mr. Chairman, I would urge the adoption of the gentleman's amendment.

Mr. TAUKE. I thank the gentleman for his remarks.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the thrust of the Federal education program is to develop public and private education without differentiating between the two. This amendment would run counter to that thrust. I am sure that private education will receive due recognition and attention in the structure of the Department of Education without our requiring the appointment of an Assistant Secretary for Private Education. The contributions which private institutions have made to our American education system at all levels are well known and are generally appreciated. I would say that we do not have an assistant secretary for bilingual education to help people who have difficulty in communicating in this country, and if we are not going to have an assistant secretary for bilingual education, we surely do not need one for private education whose members seem to be fairly good as communicating and accumulating, as well. The effect on private education of any action of the Federal Government should be considered throughout the Department. It should not be isolated in one office.

☐ 1840

The bill explicitly provides that one of the purposes of the Department is to support more effectively States, localities, public and private institutions, and students and parents in carrying out their responsibility for education.

I certainly do oppose the amendment. I hope that the Members will defeat it committee does not believe, and I do not think Congress believes that we ought to have an Assistant Secretary for private education when we did not have one for bilingual education; and we do not for every other categorical grant in the United States.

We have already said that we are interested in private education. The President has indicated that. I indicate that. The committee indicates that.

If the gentleman does not believe it, then he will just have to wait and see.

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment.

(Mr. DOUGHERTY asked and was given permission to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I would simply like to commend the author of the amendment, the gentleman from Iowa, and point out that one of the real problems with this bill is the very genuine and very real concern that private education, both on the lower level as well as higher education, is going to be shorted.

My feeling is this would give some assurance that private education would indeed have a voice and would be represented.

I appreciate the gentleman yielding. I wanted to commend the gentleman from Iowa.

Why not recognize the frustrations that I am afraid exemplify here the parents who send their children to private schools and who feel they are ignored by their Government. Why not one more bureaucrat, Mr. Chairman? Why not an Assistant Secretary for private education?

Why must we feed the fires of suspicion among those who see this Department as nothing more than but a grab for power, total and complete power over the field of education?

Indeed, the chairman even talks about coordinated services between private and public schools. We do not see, though, the input of the private educator in the delivery of those services.

Mr. Chairman, anything less than an assistant secretary for private education is nothing more than arrogant tokenism. The parents of those young people who attend private schools in this Nation are entitled to a voice in the new Department. Those who teach in our private schools are entitled to a major role in the new Department.

Indeed, those of us who pay taxes to support public education, while also paying to send our children to nonpublic schools, we demand equal access to the decisionmaking process in the new Department.

Those of us who speak for private education and our constituents, Mr. Chairman, we have had it with unfulfilled promises. We have had it with meaningless words. We have had it with bureaucratic hogwash.

decisively.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Iowa.

Mr. TAUKE. The gentleman is undoubtedly aware that under the current Office of Education there is a deputy commissioner for private education, and the gentleman is also undoubtedly aware that the President has made a commitment to some kind of official being designated to be an advocate, if you will, for private education in the new Department.

Is this consistent, do you believe, with your argument that in the new Department private education and public education will be treated equally?

Mr. BROOKS. They will both be treated fairly. I think there is nothing at all which prevents the Department of Education from consolidating, from coordinating, from emphasizing, from working with every facet of private education, as I am sure they will, at the President's suggestion and in his good judgment.

Mr. TAUKE. If the gentleman will continue to yield, if the President has already in a somewhat vague indication suggested there is a need for an official designated to be an advocate or representative of education in the Department, why is there an objection to our clearly designating who that official will be and what the responsibilities of that official might be?

Mr. BROOKS. Because we do not want to straitjacket the Department, because I personally do not believe, and the

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment, and I am somewhat exasperated by the responses the chairman of the committee just made to the gentleman from Iowa (Mr. TAUKE).

It indeed causes many of us a great deal of frustration when we hear the chairman of the committee refer to the Department and its Assistant Secretary for bilingual education in the same vein as an Assistant Secretary for private education. He obviously knows there is a difference in the number of students being served.

I think the responses of the gentleman simply fuel the fire of those of us who find ourselves in a very difficult position.

I support a separate Department of Education. I see it as a need that we have long wanted to have the Federal Government play a proper role in education.

I urge my colleagues to support this amendment. I must say that I am dismayed by the attitude expressed by many who backed this bill. Indeed, the bill calls in its findings for a recognition that the American people profit from a diversity of educational settings, both public and private.

We talk about a diversity of education, both public and private. Then why not an Assistant Secretary for private education? Why not, when we recognize that there is a divisiveness that surrounds this bill, why not meet the needs of those in private education by saying, yes, there is a role, and we will provide an Assistant Secretary for private education.

If there is no room for private education in the policymaking level of the new Department, then those of us who are concerned with private education have no choice but to tell our constituents, "Yes, your suspicions and fears are well founded; yes, the Department, if established, is to be viewed as biased against your interests; and the interests of your children."

Mr. Chairman, in the interest of creating a Department in a harmonious and positive manner, I urge the adoption of this amendment.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in my judgment, once we get an assistant secretary for private education, it will not be long before there is no private education any longer.

In my judgment, this is institutionalized regulation at a high level, the highest level, regulation by the Government of private schools. I think that is bad public policy; most of all bad public policy for all of the wonderful private and parochial schools in this country which promote and provide diversity in education.

Private schools would have everything to lose and nothing to gain by this kind of hierarchy. They would be competing with and subject to higher institutionalized level requirements, regulations, and burdens that our public schools inevitably have to deal with and fight against every single day.

In my judgment, Mr. Chairman, H.R. 2444 is bad, because it presumes ultimate Federal control over the policy of education, and for that reason, I oppose it; but an assistant secretary for private education throws in the towel for private schools, too, and assumes that ultimate Federal control over private education as well as public education.

Private education has to fight for its life, but let us not give them a corner room right next to the secretary of public education to have to deal with matters that he or she does not even have to deal with right now.

I urge, for the future of private schools in this country, a defeat of this amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I join the gentleman in his opposition to the amendment. I do not agree with him about the outcome of the bill, however, since I support the bill.

But the gentleman agrees, does he not, that the present bill transfers all of the functions and the duties of the present office of private education.

Mr. GLICKMAN. I agree.

Mr. FASCELL. And that means, therefore, that the status of private education, whatever it is in the present Department, would retain its status in the new Department.

Mr. GLICKMAN. That is correct.

Mr. FASCELL. And that no case has been made, and I agree with the gentleman, for elevating the status of the present officeholder or whoever that officeholder might be for private education in the present hierarchy, that all this private education system needs is a Deputy Secretary in HEW or an Assistant Secretary. I agree with the gentleman and I say this as somebody who has supported tuition tax credits for private schools. I believe in private education. I believe this just moves it in the direction that we will have no private education! I think the gentleman made a very good statement.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise reluctantly to oppose the amendment offered by the gentleman from Iowa (Mr. TAUKE) from this side of the aisle. But I think that private education does not stand much of a chance of remaining private if it is subject to more Federal interference. Designating an Assistant Secretary for private education does not guarantee that such an officer will be a watchdog to protect private education. It may, depending on who is appointed and the direction of the administration at the time, be a mandate for further intrusion into private education.

Now, I think it is very telling that one of the principal opponents, one of the most vociferous opponents of this proposal to create a Department of Education is the U.S. Catholic Conference. Their fear is that they will not be properly affected by a new Department of Education.

The private universities and colleges in this country quite generally—not uni-

The CHAIRMAN. The Chair will count.

Mr. ERLENBORN. Mr. Chairman, I withdraw my demand for a recorded vote and my point of order of no quorum.

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 59, in line 2, after the semi-colon, add "and";

In line 5, strike out "; and" and insert in its place a period; and

Strike out lines 6 through 8, inclusive.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

☐ 1900

Mr. ERLENBORN. Mr. Chairman, subsection (6) provides as follows: "providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities."

This subsection would establish a relationship directly between the Department of Education proposed in this legislation and students, parents, and their communities, bypassing State education departments, bypassing local education agencies such as school boards, and call-amendment would then do is start a fight that does not now exist.

Mr. GLICKMAN. I agree with the gentleman.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Iowa.

Mr. TAUKE. The gentleman may note throughout the bill there are provisions under each of the other assistant secretaries which suggest those assistant secretaries shall administer functions affecting both public and private education.

Each of those assistant secretaries will deal primarily with public education. That is why we need someone in the Department who supports private education to prevent those people from taking over private education.

□ 1850

Mr. GLICKMAN. I just disagree with the gentleman's conclusion. I think it will lead to the demise of private schools in this country to have a person of that level in the Government.

Mr. TAUKE. Then I would suggest to the gentleman, if the gentleman will yield further, that he strike private schools throughout the bill so they truly are not affected by the Department, as the bill now indicates.

Mr. EDWARDS of Oklahoma. Would the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I want to compliment the gentleman from Kansas on his remarks. I agree with them.

The last thing in the world that the versally, but quite generally—are in opposition to the proposal to create a Department of Education. Some of these institutions, private institutions such as Brigham Young University out in Utah, have been very careful over the course of the years, and Hillsdale College in Michigan and Grove City College in Pennsylvania have been very careful over the years, not to take any Federal funds institutionally because they fear that following Federal funds would come Federal control.

Despite the fact that they carefully avoided taking any Federal funds, we have found that title IX and other provisions of Federal law are being enforced against these institutions. No matter how hard they try to keep the long arm of the Federal Government out of their affairs, to be completely autonomous and not to rely on Federal funds, these institutions already are suffering from Federal interference.

I feel that the creation of this Assistant Secretary for Private Education will mean an evermore rapid and deepening involvement by the Federal Government in private education, threatening its very existence, and therefore I hope the amendment would be defeated.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. Tauke).

The question was taken; and on a division (demanded by Mr. Tauke) there were—ayes 15; noes 48.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

ing for a direct relationship between the Federal Department of Education and the students and their parents in the communities. I would submit that the best place to have that interchange between the students and their parents is in the community and between the parents and students and their locally elected school boards. To give authority to this new Federal Department of Education to get involved directly with the students and the parents I think would be a mistake, and I would ask that the amendment be adopted.

Mr. HORTON. Mr. Chairman, I am going to rise in opposition to the amendment. I shall not take the 5 minutes, but this is the section that has to do with principal officers. The earlier part of the section says: "The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of his act), including, but not limited to, the following functions:"

And then it enumerates (1), (2), (3), (4), (5), and (6), one of which is the one that the gentleman was just referring to. It reads: "Providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities."

It seems to me that this is a proper function of these officers, and I do not think it is intended that there is any desire to circumscribe or get around the States' involvement in educational programs. I think the gentleman is creating problems where there are not problems. Where we have the latest technology, where there is the latest development with regard to education, that information ought to be furnished as quickly as possible to students, parents, and communities through whatever channels are available, so I would urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 8, noes 32.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-five Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-
 schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen

McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead,
 Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan

Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler

[Roll No. 220]

AYES—149

Abdnor
Anderson,
 Calif.
Andrews,
 N. Dak.
Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bereuter
Bethune
Bevill
Boland
Broomfield
Brown, Ohio
Broyhill
Burgener
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Edwards, Ala.
Edwards, Okla.
Emery

Flippo
Fountain
Frenzel
Gingrich
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammer-
 schmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Holt
Hopkins
Hubbard
Hughes
Hyde
Ichord
Jeffries
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lungren
McClory
McDonald
McEwen
Marlenee

Moorhead,
 Calif.
Myers, Ind.
Nelson
Nichols
O'Brien
Pashayan
Paul
Quayle
Railsback
Regula
Roberts
Robinson
Roth
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Wampler
Weiss
White
Whitehurst
Whittaker
Winn
Wolff

1386

The following Members responded to their names:

[Roll No. 219]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1920

The CHAIRMAN. Three hundred and sixty-eight Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 243, not voting 42, as follows:

English
Erdahl
Erlenborn
Fenwick
Findley
Michel
Miller, Ohio
Moakley
Montgomery
Moore
Wydler
Wylie
Young, Alaska
Young, Fla.
Zablocki

NOES—243

Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Dicks
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Huckaby
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland

Levitas
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.

NOT VOTING—42

Addabbo
Anderson, Ill.
Bafalis
Biaggi
Bolling
Brademas
Burton, John
Conyers
Davis, S.C.
Derrick
Flood
Forsythe
Goodling
Hall, Ohio
Hanley
Holtzman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Long, La.
Mikva
Ottinger
Pepper
Rousselot
Runnels
Russo
Treen
Udall
Walker
Waxman

page 58, up to and including line 8 on page 59, and insert in place of the stricken material a period.

On page 59, in line 9, strike out "(d)" and insert in its place "(c)".

On page 64, in lines 1 and 2, strike out "one of the officers appointed under section 202 of this Act." and insert in its place: "compensated at the rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code."

On page 99, in line 3, strike out "14" and insert in its place "9".

On page 100, strike out all after "(41)" in line 2, strike out lines 3 and 4, and insert a period in place of the stricken material.

On page 102, in lines 16 and 21, strike out the word "principal".

Mr. QUAYLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that the conforming amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. QUAYLE. Mr. Chairman, this amendment that I am offering here in title II is consistent with an amendment I am going to offer in title IV that will place a cap on the number of employees in this new Department of Education.

This amendment, Mr. Chairman, simply strikes in title II the five officers reporting directly to the Secretary. I would just like to read from page 58 in this bill what we are talking about as far as the top employees in the Department of Education are concerned. It says as

As I said, I have a major amendment to title IV that is going to limit the overall size of the staff of employees, and, therefore, we need to simply strike these five officers that need to be confirmed by the Senate. If it so happens that they need these employees, they can hire them, but then they are not going to be executive level 5 employees appointed by and with the advice and consent of the Senate.

Mr. Chairman, this is a simple amendment. It is a conforming amendment, and I am sure my distinguished and respected chairman, the gentleman from Texas (Mr. BROOKS) might even accept this amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, let me say that the bill provides the blueprints for the Department of Education, but it does not say where every nail is going to be and exactly what color paint is going to be used. We leave some things to the discretion of the people who are going to run this department. We establish six offices with specific functions.

We say they shall be headed by assistant secretaries, and their duties are pretty well determined by the nature of the office they will be in charge of. But there are other functions to be performed, dealing with congressional relations, public information, management and budget, planning, evaluation, and policy development, encouraging and monitoring involvement of parents, students, and the public in departmental programs.

Diggs
Dingell
Evans, Del.
Evans, Ga.
Lujan
McKinney
Mathis
Mikulski
Williams, Ohio
Wilson, Bob
Wirth
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Bafalis for, with Mr. Conyers against.

Mr. Rousselot for, with Mr. Johnson of California against.

Mr. Walker for, with Mr. Runnels against.

Messrs. PHILIP M. CRANE, NICHOLS, CLAUSEN, and DONNELLY, changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1930

Mr. BROOKS. Mr. Chairman, I ask unanimous consent that all debate on title II and all amendments thereto end at 8 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Are there further amendments to title II?

AMENDMENTS OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer amendments to section 202.

The CHAIRMAN. The Clerk will report the amendments.

> Amendments offered by Mr. Quayle: On page 58, strike out lines 12 through 15, inclusive; and in line 16, strike out "(c)" and insert in its place "(b)".
>
> Strike out all after "Act)" in line 20 on follows, in section 202(a):
>
> There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

That is all right. But then we go on in paragraph (b), as follows:

"In addition, there shall be in the Department five Officers * * * who shall be * * * confirmed by the Senate.

The question that I had concerning this is: What are these five officers going to do?

It just so happens that only 1 out of the 5 officers is even mentioned in the bill, and that happens to deal with the Department of Defense.

As to the other four officers, let me just read what they will be doing. They will be talking about congressional relations functions, public information functions, management and budget functions, planning, evaluation, and policy development functions, encouraging and monitoring involvement of parents, students, and the public in departmental programs. And, last, providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities.

Mr. Chairman, throughout this debate we have heard from both sides of the aisle from Members who support the bill and Members who oppose the bill that we do not want to create a huge new Federal bureaucracy, and that this is just a simple reorganization and we are not going to have a lot of Federal control. They will be dealing with each school. That is not listed, and there will be other things.

Foreign languages will be one of the things with which they will be concerned. Private schools will be one of the things they will be concerned with. Bilingual studies and evaluations will be another thing they will be concerned with.

We are not trying to identify each function to a specific officer. We know we are going to need some people to be in charge of these functions. We decided that five would be adequate.

That is a limited number, but we are running a lean operation. We say the Secretaries will take these five offices and perform the duties that are necessary. The duties are assigned by the Secretary, and we are sure that some flexibility of the administration is needed to manage a large, complex department.

Mr. Chairman, I would ask the membership to vote against these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Indiana (Mr. Quayle).

The question was taken; and on a division (demanded by Mr. Quayle) there were—ayes 37, noes 68.

RECORDED VOTE

Mr. QUAYLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 220, not voting 44 as follows:

[Roll No. 221]

AYES—170

Abdnor
Albosta
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bethune
Bevill
Boland
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine

Fithian
Fountain
Frenzel
Gilman
Gingrich
Glickman
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Hughes
Hyde
Ichord
Jacobs
Jeffries
Jones, N.C.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler

Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Panetta
Pashayan
Paul
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible

Luken
Lundine
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan

Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa

Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Weiss
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Yates
Yatron
Young, Alaska
Young, Mo.

NOT VOTING—44

Addabbo
Alexander
Anderson, Ill.
Biaggi
Bolling
Brademas
Burton, John
Burton, Phillip
Conyers
Davis, S.C.
Diggs
Dingell
Eckhardt

Evans, Ga.
Flood
Forsythe
Goodling
Hanley
Holtzman
Johnson, Calif.
Long, La.
Lujan
Mathis
Mikva
Montgomery
Obey

Rousselot
Runnels
Russo
Sabo
Treen
Udall
Walker
Waxman
Weaver
Wilson, Bob
Wirth
Wyatt
Zablocki

The following amendments are reasons for opposing this bill:

The adoption of the antibusing amendment. I do not think we need to say more about that.

The adoption of the school prayer amendment, which passed on June 1, makes it a purpose of the Department of Education to permit opportunities for meditation and prayer in schools.

I voted against this in my own assembly at home. It is a bypassing of a Supreme Court decision.

And the antiaffirmative action, this amendment which passed, prohibits the Department of Education from using Federal funds to require that educational institutions use numerical requirements.

We have had a long struggle of civil rights in this House, in this Nation. I really think this is an important document that we should consider. I do not think we can go forward with a bill so encumbered with things that stand against what this country has tried to do for many, many years.

I hope very much that those who are thinking of supporting the bill will turn away from it. I think that this document deserves inclusion in the RECORD.

I thank the Chairman.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: On page 61, in line 14, after the word "private"

Dickinson
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Ind.
Fenwick
Findley
Lott
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
Marlenee
Martin
Michel
Vander Jagt
Volkmer
Wampler
White
Whitehurst
Whittaker
Winn
Wydler
Wylie
Young, Fla.

NOES—220

Akaka
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Edgar
Edwards, Calif.
English
Ertel
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Goldwater
Gonzales
Gore
Gray
Guarini
Gudger
Hagedorn
Hall, Ohio
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Horton
Howard
Hubbard
Huckaby
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry

Edwards, Ala.
Evans, Del.
Pepper
Quillen
Zeferetti

□ 1950

The Clerk announced the following pairs:

On this vote:

Mr. Goodling for, with Mr. Johnson of California against.

Mr. Lujan for, with Mr. Brademas against.

Mr. Rousselot for, with Mr. Flood against.

Mr. Walker for, with Mr. Pepper against.

Mr. Runnels for, with Mr. Conyers against.

Mr. STRATTON and Mr. ALBOSTA changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as some of my colleagues know, I am not in favor of this bill, but I think that this is an important communication from the American Civil Liberties Union on the whole question of this bill.

I would like permission of the House to read it.

The ACLU, up to this point, has taken no position on the substantive provisions of H.R. 2444, the Department of Education Organization Act. However, in light of the drastic and damaging anti-civil rights and civil liberties amendments recently approved by the House, this legislation has become a mechanism to severely undermine this nation's commitment to civil rights and civil liberties. For this reason, the ACLU now opposes enactment of this legislation. We urge you to reconsider your support of this bill and to vote against H.R. 2444.

insert "organisations and".

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, we have looked at this amendment before, as the gentleman knows, and agreed with it. I see nothing wrong with it whatsoever. I agreed with the gentleman earlier on this amendment.

Mr. ERLENBORN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was agreed to.

● Mr. VENTO. Mr. Chairman, I rise in support of this legislation to create a Department of Education. Profound benefits to the country will directly result from passage of H.R. 2444 in two major areas: improved administration and increased national attention focused on education-related issues.

The establishment of a Department of Education will improve the Federal Government's administration of its education programs and help State/local initiatives vital to meeting the needs of our society today. Presently, education programs account for only 8 percent of the total HEW budget. Sandwiched between the dominant concerns of health, welfare, and social programs, educational issues do not receive the full-time attention of high-level HEW officials which they deserve. The budget of HEW is the third largest in the world, exceeded by only the total budget of the United States and the Soviet Union. Because of this huge diverse responsibility, it is not possible, nor is it desirable, for the Secretary of HEW to increase his concentration on education at the expense of his other responsibilities. However, it is equally undesirable to maintain the secondary status of educational concerns inherent in the present structure. Creation of a separate Department of Education is the only logical solution to this dilemma. The constant turnover in the Office of Education top position further demonstrates the utter frustration that administrators continue to experience under today's structure.

We can realize substantial short- and long-term administrative savings through the elimination of 450 positions and an immediate reduction of $19 million in administrative costs. The Office of Management and Budget has estimated that the long-term savings will amount to more than $100 million, because of increased administrative streamlining. This expectation, of course, represents a major reason for moving ahead with this legislation: it makes sense in dollars, administrative structure, and for the future needs of our educational programs.

Increased administrative efficiency will also result from this legislation. One of the most frequent complaints about Federal education programs is the inevitable delay between the initiation and final enactment of regulations. This delion, rivaling the defense budget. Education employs or directly affects more than 60 million people as student, teachers, administrators as well as persons in the private sector. Considering the importance of education in our society, the establishment of a Department of Education is long overdue.

In the past few years there has been a growing public concern expressed about the problems and new demand placed upon our educational system. For example, concerned parents point to declining standardized test scores, or to an increase in the number of high school graduates who lack the basic skills to function as productive members of the society. Whether these perceptions are accurate or the result of more sophisticated and rigorous standards for evaluation, the fact remains that the public's confidence in its educational system is waning.

However, public concern about education has increased. It is precisely this increased interest which is answered in a responsible fashion in this legislation. Formation of a Department of Education will provide a national focus on Federal/State efforts in education. The new department would convey to the American people as well as to the officials of the executive and legislative branch the importance that the Nation places on education. The news media would pay more attention, the Congress would pay more attention, and the people would be better informed by the clear lines of authority for Federal programs. This creates an atmosphere where the possineeded reorganization. It is because of the leadership and diligence of Chairman Brooks that the legislation we will act upon today reached the floor in a balanced and well reasoned form. This legislation will serve the public interest well. The millions of public servants who have dedicated their lives to the education of our youth; the parents who are concerned that their children will enter this society with the tools to function as productive members; and most importantly our children; deserve no less.

There are interest groups on both sides of this issue, but all have as a goal the welfare of people in our society to attain improved schooling, education. In the final analysis the facts the advantages of this reorganization and new department offset the fears raised by critics.●

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Erlenborn: Strike out all from line 8 on page 57 to line 16 on page 68 and insert in place of the stricken material:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

Sec. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision lay, which averages 519 days for routine regulatory promulgation, is directly attributable to the arduous route through which all regulations must pass before they are effective. This legislation would reduce the number of offices that must "sign off" on all educational regulations from 25 to 10. It would also cut the number of days of delay by more than half, eliminating the redtape. Local educational officials who must now deal with 40 separate agencies scattered throughout the Federal Government would have greater opportunities for input in policy formation in the new Department. By approving this legislation the House would be striking a major blow for Federal accountability: A goal which has received considerable prominence this session.

Another major advantage of this legislation will be the increased ability to coordinate Federal efforts in education. A single Federal agency will have the primary responsibility for the vast majority of Federal educational programs. Beyond the reduction in the number of agencies, H.R. 2444 also creates an Interdepartmental Education Coordinating Commission to encourage consistent Federal policies which impact on education. By itself, the improved administrative ability is sufficient grounds for passage of the Department of Education. Just as importantly, education will finally receive the national recognition commensurate with Cabinet-level status. The proposed department will administer a budget larger than five existing departments. Total national-State-local spending on education exceeds $120 billity for dealing effectively with the national educational role and problems would be enhanced. The public as well as the educational establishment would be well served by this increased national attention focused on education.

Opposition to the Department of Education is based on fear: fear of Federal control; fear of dominance of special interests; and fear that this will lead to a reduction of the family's influence. However a closer examination will show that these fears are not grounded in fact. It is very difficult to satisfy this criticism but insofar as is legislatively possible that has been accomplished.

The language of this legislation addresses these fears. The primary responsibility for the education of our children remains with State and local governments and the family. H.R. 2444 contains safeguards against dominance of the Department by special interest groups. And finally there is no provision for an unwarrented Federal intervention in family life.

Mr. Chairman, the Department of Education is an idea whose time has finally come. Support for this proposal has been growing in Congress for years. It is to the credit of President Carter that the administration has worked so hard for this legislation.

It is unfortunate that it has taken on a partisian flavor and become a political football, because the issue has long been considered by Congress. Former heads of the Office of Education continue to support it, and the Senate has led the way by an overwhelming vote in achieving this

and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs;

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities; and

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204(a). There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

[The third column begins mid-section:]

tion 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. (a) There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Sec-

Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

SEC. 205. (a) There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. (a) There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under sec-

retary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmenal Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. (a) There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant

Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

(b) The Assistant Secretary heading such Office, in carrying out the functions of the Office, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Illinois reserves the right to object.

Mr. ERLENBORN. Mr. Chairman, it really had not been my intention to ask that this whole, rather long substitute amendment for title II be read, but there was a tentative agreement that we would rise when we finish title II. I was not even going to offer the amendment.

The gentleman from Texas has refused, and wanted to go until 9 o'clock, so I guess we will have to hear the amendment. I would still be willing to withdraw the amendment if we could

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There is established in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

GENERAL COUNSEL

SEC. 210. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) Section 2(1) of the Inspector General Act of 1978 is amended, by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 212. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs; appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 213. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies rise when we complete title II.

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Mr. BROOKS. Mr. Chairman, if the gentleman will yield, I would reply to the gentleman and say I announced, after talking with the Speaker of this House, the gentleman from Massachusetts, (Mr. O'NEILL) and reaching an agreement with him, that we would work until 9 o'clock. I announced that and asked the gentleman from Ohio (Mr. ASHBROOK) if he would yield and he did. I said then that I had made an agreement that I would ask that the Committee rise at 9 o'clock, and it seemed to suit the Members fairly well. I did not make any agreement that we would conclude at 6 o'clock, or 7 o'clock, or 8 o'clock, or 8:45 if we finished title II. I had said we would continue to work through 9 o'clock, hoping to get into the title III and moving this bill on so that the Members of Congress could vote on it without dilatory tactics and a continued delay.

Mr. ERLENBORN. Mr. Chairman, I had hoped we would be able to rise even earlier, but apparently we cannot, so I must object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any further amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Higher Education Act of 1965;

(D) under the Education Amendments of 1978;

(E) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) under the National Defense Education Act of 1958;

(G) under the Education of the Handicapped Act;

(H) under part B of title V of the Economic Opportunity Act of 1964;

(I) under subparts I and II of part C of title VII, and part B of title VIII of the Public Health Service Act;

(J) under the National Commission on Libraries and Information Science Act;

(K) under the Vocational Education Act of 1963;

(L) relating to Gallaudet College, Howard University, the American Printing House

(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(7) the Advisory Council on Education Statistics and all functions vested in such Council; and

(8) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary of all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this subsection, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary

National Science Foundation, for coordinated planning and operation of the science education programs described in subsection (a), including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the National Science Foundation Act of 1950 to initiate and conduct programs.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsection (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 307. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in for the Blind, and the National Technical Institute for the Deaf;

(M) under the Model Secondary School for the Deaf Act;

(N) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(O) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(P) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4)(A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education; (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the

section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories required by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.

(c) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

EFFECT OF TRANSFERS

SEC. 308. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, had come to no resolution thereon.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, WEDNESDAY, JUNE 13, 1979 *No. 77*

House of Representatives

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and on a division (demanded by Mr. STANGELAND)

Blanchard
Boland
Bonner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Byron

Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Hawkins

Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi

there were—yeas 148, nays 47.

Mr. STANGELAND. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 356, nays 50, not voting 28, as follows:

[Roll No. 229]

YEAS—356

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Lent
Levitas
Livingston
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Campbell
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder

Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—50

Archer
Ashbrook
Badham
Bauman
Broomfield
Brown, Ohio
Butler
Carney
Cheney
Cleveland
Collins, Tex.
Conable
Coughlin
Crane, Philip
Daniel, R. W.
Erlenborn
Frenzel
Gingrich
Goodling
Gradison
Hansen
Harsha
Hinson
Jeffries
Latta
Lewis
Lloyd
Loeffler
Lungren
McClory
McDonald
McEwen
Mitchell, Md.
Myers, Ind.
O'Brien
Paul
Quayle
Ritter
Rousselot
Royer
Rudd
Sensenbrenner
Shumway
Shuster
Snyder
Stangeland
Stratton
Taylor
Thomas
Wilson, C. H.

NOT VOTING—28

Annunzio
Boggs
Bolling
Buchanan
Conyers
Findley
Flood
Forsythe
Goldwater
Hagedorn
Rangel
Rodino
Runnels
Symms
Treen

to the proposed Department of Education.

Adoption of this amendment will prevent unnecessary and unwise fragmentation in health manpower planning and strategy, and obviate duplication of effort and potential conflicting Federal policies in the health manpower area.

As indicated in my dissenting views on this bill, the burden of proof that a new administrative structure—in this case a new department—is needed, should be on those making that proposal. At a minimum, reasonable proof should be provided that the agencies currently administering the programs in question are doing so in an inefficient and unacceptable manner and that the problems are not conceptional, but rather organizational. Any such proposal should result in "more economy and efficiency",, elimination of "overlap and duplication", and "greater responsiveness" to the needs of the public. The provision of H.R. 2444 which my amendment proposes to delete, meets none of these tests. The contemplated program transfer would, in fact, result in a lack of comprehensive Federal policy for health professions education, and divide program administration between departments, making it less cost effective.

As reported, the bill would transfer the Federal program of insured loans to graduate students in health professions schools; student loan and loan repayment programs for these same individuals, and nursing scholarships, traineeship paperwork, or improve the collection and billing process.

For these reasons, specialized programs of assistance to health professions and nursing students need to be preserved in their current context if they are to be effective as one part of a coordinated program of assessing and meeting the Nation's health care needs.

I urge the adoption of this amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The consolidation of various student loan, scholarship, and traineeship programs within the Department of Education can have significant benefits. This consolidation will permit the Secretary to simplify loan eligibility procedures, reduce paperwork burdens on students and their families and on institutional administrators, and improve the procedures for collection, debt referral and forgiveness activities. It is true that health profession loan and assistance programs have unique features, but the same can be said of all scholarship and loan programs of the Federal Government. The purpose of consolidating these programs within the Department of Education is to improve the operation of the common features of these assistance programs. Health profession assistance should be transferred to the Department of Education, and this amendment should be defeated.

Mr. CARTER. Mr. Chairman, I rise in support of the amendment.

Daniel, Dan
Davis, S.C.
Derrick
Diggs
Edgar
Johnson, Calif.
Kindness
McKay
Nichols
Pepper
Vander Jagt
Williams, Ohio
Wilson, Bob

☐ 1700

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 12, 1979, title III had been considered as having been read and open to amendment at any point.

Are there any further amendments to title III?

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: Page 69, strike out lines 22, 23, and 24, and redesignate the succeeding subparagraphs accordingly.

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, this amendment would delete that provision of H.R. 2444 which transfers responsibility for administering the majority of the health professions and nursing student assistance programs from the Department of Health, Education, and Welfare ships, student loans and loan repayment programs. Because these programs have been designed to train these health professionals necessary to meet national health care needs, the transfer of responsibility for their administration, and the subsequent splitting of educational program support from the policy and strategy decisionmaking process related to health manpower development makes neither fiscal nor programmatic sense.

The justification provided for the consolidation of student assistance authorities in a Department of Education is that it would simplify loan eligibility procedures; reduce paperwork burden on students and college administrators; improve Federal collections; and allow reassessment of the present mix of allocation formula and application processes.

Because the programs of financial support for health professional training are part of a national health strategy to meet health care needs, because they contain unique program provisions—such as individual loan maximums; deferral of loan repayment pending completion of advanced clinical training; and repayment of loans for students who serve in manpower shortage areas, among others—and because of linkages with other health manpower programs, these educational assistance programs are sufficiently unique to be continued in their present context. Unless the special provisions of the health professions assistance programs are to be eliminated upon transfer of these programs to a Department of Education, such a transfer would not in itself significantly simplify loan eligibility procedures, reduce

Mr. Chairman, I am pleased to join my distinguished colleague today, the chairman of the Subcommittee on Health and the Environment, the gentleman from California (Mr. WAXMAN), in offering this amendment to prevent disruptive fragmentation of health professions education programs and policies.

As drafted H.R. 2444 would transfer responsibility for administration of important health professions and nursing student assistance programs from HEW's public health service to the proposed new Department of Education.

In doing so the bill would separate health professions student assistance from the general health programs and thereby severely disrupt our ability to provide an effective, coordinated, and comprehensive policy in this important area.

Moreover, by shifting these health student assistance programs to the Department of Education H.R. 2444 would split authority for health programs between two Federal agencies.

Congressional jurisdiction would then be divided between the respective committees in the House and Senate and as a result effective policymaking would be further complicated.

Mr. Chairman, I am very concerned that the bill's provision transferring some of the health authorities to the new Deparment would be extremely detrimental to our ability to plan for and meet the health needs of our Nation. Issues such as the maldistribution of health personnel are difficult enough to solve without complicating the process by fragmenting our health manpower programs.

The amendment I am offering with Chairman WAXMAN would delete the harmful transfer provision from this bill.

By adopting our amendment health student assistance programs will be preserved as an integral part of the health sector.

Only in that context will we be able to develop effective and coordinated policies to address the complex issues of health policy which we face now and will undoubtedly face in the future.

I urge favorable consideration of the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the distinguished chairman.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I wanted to respond to the statements of the chairman of the Committee on Government Operations in arguing against the amendment. The gentleman referred to the fact that there are loan [illegible] in higher educational programs that would be dealt with through a consolidated Department of Education; but I wanted to point out to the gentleman and to the members of this committee that these programs in the health professions are unique. They have unique program provisions, such as individual loan maximums, deferral of loan payments, pending completion of advanced clinical training and repayment of loans for students who serve in manpower shortage areas.

of called in to question by that kind of disorganization?

Mr. CARTER. Mr. Chairman, the gentleman from Pennsylvania (Mr. WALKER) is correct.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his response.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Yes, I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, as a matter of fact we have been discussing these loan programs during the reauthorization process for higher education in the legislation that is being considered under authorization at the present time.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. CARTER was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield further?

Mr. CARTER. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman would be interested, I am sure, in what the student groups have had to say about the unique characteristics of these loans. They were somewhat critical. But when we talk about simplifying things, let us picture what we are really talking about in terms of the student. sor of education telling a dentist just what to do, or would he want a professor of history telling a nurse what to do?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has again expired.

(By request of Mr. WAXMAN, and by unanimous consent, Mr. CARTER was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, would the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, in further answer to the point raised by the gentleman from Michigan (Mr. FORD), the program for the health professional students and for the nursing students is not an ordinary loan program. It is not just to aid those students, as is the case with the other loan programs. It is to aid in filling out the needs we have in the country for certain health professionals and in order to deal with the manpower shortage problems that we have, both in terms of geography and in terms of specialities.

Whatever our view is on whether there ought to be a Department of Education, I think we ought to view these particular programs as not educational programs primarily but health programs primarily.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. CARTER. I am happy to yield to the gentleman from Michigan.

The reason they are unique is because these programs are designed to deal with our health needs in this country, not designed to deal with the ordinary and regular kinds of experience we have in higher education. Therefore, we may have a unique way of paying back a loan, as we have under the Health Manpower Act, where a student repays the loan by serving in a shortage area. That is so much different than the experience in other educational institutions. We are not going to save in any way on the paperwork, as the chairman would suggest, by having this go to a Department of Education. I think it confuses the roles and would fragment policy.

I wanted to mention that point. I thank the gentleman for his arguments in support of our amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

If I understood what the gentleman in the well was saying and the distinguished chairman of the subcommittee before him, this particular addition into the Department of Education really causes more disorganization within government.

□ 1710

Is that the point the gentleman is making, that really by ordering this department we are causing more disruption and more disorganization within this particular aspect than would presently be there in Government, and that the whole reorganization concept is kind

The student borrows from two or three basic loan programs now in the Office of Education. They borrow from these programs while they are in undergraduate school. Then they go on to medical school, and they borrow both from the Office of Education and from the medical loans, all of which are presently in HEW.

But when the Office of Education leaves HEW, they will not even be in the same agency any longer. So when we talk about fragmenting something, we are really talking about separating something that is now together, and we will, in fact, have the monitoring of the default problem with respect to these loans in two different places with two different Secretaries.

What the gentleman is suggesting is to leave with HEW the monitoring of the medical loans, and then at the same time the other loans which the same student has will be over in the new Department of Education. If the gentleman can explain that to students as a way we are making their lives simpler, I would like to hear it. They do not agree that that is simplification.

Mr. CARTER. Mr. Chairman, if I may reclaim my time, I have right here letters or telegrams from the American Nurses Association and the American Association of Medical Colleges, both of them asking that the loans remain under the Public Health Service as they are now.

The thing about it is that the Public Health Service has the expertise to handle these loans. It is the only group which really does have that expertise.

Would the gentleman want a profes-

Mr. FORD of Michigan. Mr. Chairman, I find it borders on sophistry to suggest that health education is somehow different than other types of education, because we need people to have health education.

Does that imply that we do not need the other people supported in our education program? Does it imply we do not need artists and school teachers and engineers and lawyers and architects, but that we do need people in health, and somehow that makes the nature of their education different? What does the gentleman mean by that?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Mr. Chairman, I will yield in just a few seconds, but first, in response to what the gentleman said, I would point out that really it takes a physician to teach physicians. We should not go to the Department of Education to get someone to teach a physician.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. Carter) has again expired.

(On request of Mr. Ford of Michigan, and by unanimous consent, Mr. Carter was allowed to proceed for 2 additional minutes.)

Mr. CARTER. Mr. Chairman, the Public Health Service officials have the expertise to oversee dentists, doctors, nurses, osteopaths, and so on, and such expertise is vitally necessary. A Department of Education will not have this expertise.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the chairman of the subcommittee.

Mr. WAXMAN. Mr. Chairman, I hope the gentleman from Michigan (Mr. FORD) did not misunderstand the point I was making. From his statement, I thought perhaps he did.

If we in this country want to encourage education, if we want to encourage those who do not have sufficient means to get an education, we must have a loan program for any student for any kind of program.

These programs, however, for the health professionals, in addition to the loans we give to students who are in need financially, are specifically targeted to deal with health manpower needs in the country.

Certainly we need engineers, certainly we need teachers. We need to have an educated public. When we make loans for health professional students, however, we are providing loans not just for the students to receive an education, but to fulfill the needs for health manpower.

We have a unique repayment program to offer for a student in certain health professions if they will agree to serve in underserved areas. That is far different from what we do when we give a loan to someone to become an engineer or a teacher or a member of some other profession.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield further, I cannot agree with that at all. As a matter of fact, we expect that we are making say that really physicians are needed to oversee the program that we have right now in the Public Health Service. We do not have them in the Department of Education.

Of course, dentists oversee the dental teaching programs and the dentists who get loans.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has again expired.

(By unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. CARTER. Mr. Chairman, as I understand it, right now, at the present time there are outstanding loans up to $1 billion. Perhaps we need a physiologist over there to lend them and collect them.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it seems to me that this is probably the first of many arguments we are going to hear on title III about totally unique programs that need to be withdrawn from the Department of Education.

The whole concept the proponents put forth for the Department of Education is that it is to be a comprehensive Department covering all phases of education, and now we hear each special interest group come forward and say, "Look, we have a unique program that needs to be withdrawn from this department."

the gentleman the question that, in fact, what he is saying is that, in creating this Department, we are in fact fragmenting Government. I think that is an excellent point to be made of the general nature of why we should not have a Department of Education. But if we look at the quality of the particular act we are debating here today, I think we have to make the point that we should include all phases of education if in fact that is the direction we propose to go. That is the point I am making. I think we are going to hear about the Bureau of Indian Affairs schools, we are going to hear about CETA programs, we are going to hear about a number of things, all of which say that they want to stay outside the Department of Education because they are unique. I am saying that if we are going to have a Department of Education, it should be unique, in that it includes all phases of education.

Mr. CARTER. If the distinguished gentleman will yield further, I want to commend him on his change of heart and his strong support for a Department of Education, which position he seems to have taken by his action.

Mr. WALKER. I thank the gentleman. I pointed out earlier that I am in opposition to a Department in general, but I do believe if we are going to consider a Department, it should be a comprehensive Department.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I take this occasion, because we are on the transfer section an investment in an educated person as a citizen of this country and no matter what that person chooses to do.

Sometimes—and for too many years we did this—we have encouraged people to become school teachers. We created a surplus with one of our programs. We were the primary culprit in doing that. I see Members in this room who helped create that problem, but we were trying to do the right thing.

In response to the comment of the gentleman from Kentucky (Mr. CARTER), I would like to suggest that whether we need physicians or whether we need nurses, we make a loan and collect the money after it is due. What we are talking about is lending money to people to get an education.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has again expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield further, let me say that if this bill does not pass, nothing will change, so nothing is lost. But if it does pass, we will have these programs separated.

Why not hedge against that and leave it where it is?

If the bill passes then we will keep the programs in some kind of coherent relationship to each other. But what the gentleman is saying is that even if the bill passes, he does not want to give that kind of protection.

Mr. CARTER. Mr. Chairman, I would

I would point out, Mr. Chairman, that 96 percent of the programs which are run now outside the Office of Education are already left outside this Department. If we start to withdraw programs that were included, we will be left with nothing but an Office of Education being retitled the "Department of Education."

It seems to me that is a travesty in this legislation. I would say, even to those who oppose the idea of a new Department, that I think if we are going to debate the concept of a Department of Education on this floor, we should agree it ought to be the most comprehensive kind of a Department possible. It really disturbs me that we are going to hear a whole series of arguments now that in effect say, "You should withdraw my program from this Department of Education, because if we don't do so, we will ruin the unique quality of this particular program."

☐ 1720

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. WALKER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would say that, actually, this bill takes from the Public Health Service the loan program. It is not something that you are taking from the Department of Education. It is something you are taking from the Public Health Service at the present time. And you are fragmenting, actually, the education of the different people, the different professions.

Mr. WALKER. I thank the gentleman for his comments. That was the point I wanted to clarify earlier when I asked of the bill, to talk in terms of the problems of transferring different programs into and out of the proposed Department. When the proposal was first submitted in this Congress, I had staff prepare an analysis of the programs that are included and the programs that are not included in the proposed Department. We analyzed the 1978 catalog of Federal education programs, and found that there were some 311 programs which were listed, 190 of which were not transferred to the proposed Department. So I wrote to the Director of the Office of Management and Budget to determine why some programs were included and why others were not. The plumbline that I was furnished was basically that there were four reasons for not including programs in the Department; that, first of all, those that were not transferred were those that were closely tied to the overall mission of the current agency. This program that we are talking about now is certainly not tied to the overall mission of the current agency, which is HEW.

The second was that it would undermine the effectiveness or the integrity of the programs themselves or their delivery systems. In other words, if the program was transferred away, it would undermine the effectiveness of the integrity of the program or the delivery system.

The third was that the negative effects on the parent agency would not warrant the transfer. In other words, if the program was transferred, it would create some problems so far as the parent agency was concerned.

And the fourth was where Congress

has previously indicated opposition to the transfer, such as in the case of Head Start.

This particular program was one of those that was included, and it meets the test that was furnished to me. I have available here on the minority table a copy of the response of the Office of Management and Budget with regard to its analysis of all of these programs. The plumbline, in other words, is if it is something which has to do with education and it is not going to materially affect the agency from which it is being transferred, then it ought to be in the Department of Education.

It seems to me that this particular program we are talking about, is a loan program, and regardless of its uniqueness because of the relationship that it has to the medical profession, it is purely and simply a loan program to students who are going to college, students who are going to class, students who are going to the university and for one reason or another have to borrow money in order to further their education. So it seems to me that the program ought to be under the auspices of the Department of Education where I think it can get better treatment. So accordingly I would urge that the amendment be defeated.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first I want to congratulate the chairman of the subcommittee and the chairman of the committee gentleman from Texas realizes this. You are trying to take away from the Public Health Service something they have had as their responsibility for all these years. They know what they are doing. It is not the Education Department.

I would like to say that I think to take the programs from the Public Health Service would be wrong. It puts me in mind of a little story of a town that had a great sightseeing cliff outside of the town. So many people would come and look over, and every once in awhile someone would fall over the top of the cliff and they would have to go and pick him up and they would have to bring him to the hospital. They had a big council meeting one night as to whether they should buy a new ambulance to go out and pick people up or whether they should build a fence to keep the people from falling off. Well, anybody with commonsense knows they had better build a fence to keep them from falling off.

We do not want to transfer these programs over to another department, let them take a whack at it and try to struggle around with it for a long time and then decide to buy an ambulance instead of building a fence. This is something that is too important to America; the health of this land.

As the gentleman from Kentucky (Mr. CARTER) said, we do not get lawyers to teach doctors. We do not get other kinds of instructors to teach nurses. We get those who know what they are doing, who have had experience, and experi-

Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
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Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
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Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
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Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel

1408

mittee here that has brought this bill to the floor. The gentleman from Texas (Mr. BROOKS) I think has done an excellent job. I have been trying to help him all I could on all of these amendments, and the gentleman as well as the gentleman from Michigan (Mr. FORD), have done a grand job, as has the gentleman from Pennsylvania (Mr. WALKER). I do not want to forget to mention the gentleman from New York (Mr. HORTON). He and I have been on several committees together. They have done a good job. We want to be with them and we want to help them. But I think you are making a very serious mistake here in trying to remove these programs from the Public Health Service of HEW—not the Education Department.

I have a copy of a letter from the American Nurse's Association in writing, and I know that they are dead set against it. They think it will ruin their program. They think it will be detrimental to the nursing profession.

If the new Department of Education wanted to reduce paperwork in these programs, they would have to knock out several existing, unique provisions of these health manpower programs. These include the loan forgiveness program for practice in underserved areas; the maximum loan limits, depending on the tuition of each school, and the like.

I would like to mention the fact that the gentleman from California is talking about the health manpower program and the nurses program. They come under the Health area of HEW; in the Public Health Service and not in the Education Department. I do not know if the ence in their field. Certainly we ought to leave these programs with the Public Health Service of the Nation. And so with that I say that the amendment should carry.

☐ 1730

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 230]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham

Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton

Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1740

The CHAIRMAN. Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. WAXMAN) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 169, not voting 22, as follows:

[Roll No. 231]

AYES—243

Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Applegate
Archer
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Ertel
Evans, Del.
Evans, Ind.
Lederer
Lee
Leland
Lewis
Livingston
Loeffler
Long, La.
Long, Md.

Rinaldo
Ritter
Robinson
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Scheuer
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
Staggers
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Swift
Symms
Taylor
Thomas
Van Deerlin
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zeferetti

NOES—169

Abdnor
Albosta
Alexander
Andrews, N. Dak.
Anthony
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Bauman
Benjamin
Bereuter
Blanchard
Boggs
Bonior
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Burlison
Butler
Ford, Mich.
Frenzel
Frost
Fuqua
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Guarini
Hagedorn
Hanley
Hansen
Harkin
Harris
Heckler
Hightower
Horton
Howard
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jenrette
Jones, N.C.
Jones, Okla.
Nichols
O'Brien
Oberstar
Panetta
Pashayan
Patten
Pease
Perkins
Pickle
Pritchard
Quayle
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Roberts
Roe
Rose
Roybal
Russo
Sabo
Santini
Sawyer
Schroeder
Schulze

Messrs. SEIBERLING and FITHIAN changed their vote from "no" to "aye."

Messrs. BOWEN, DINGELL, and YOUNG of Alaska changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words.

(Mr. RINALDO asked and was given permission to revise and extend his remarks.)

Mr. RINALDO. Mr. Chairman, I have listened carefully to the debate. I spent a great deal of time examining the bill, studying its implications, and the effect that it will have on my home State. I feel that what I would characterize as extreme care is fully justified. However, I would like the answers to a few fundamental questions that go to the heart of the matter before us; the answers to questions that are of vital concern to my constituents; the answers to questions that constituents have written or called me about in the past few days. Whether we want to admit it or not, the Federal Government plays an important role in our Nation's educational system. I feel very strongly that that role must be neutral. It must never advocate public schools over private or parochial schools. I have not yet decided how I will vote on the bill, but certainly my decision will rest in large measure on the answers to these questions. I will not vote for this bill if it disturbs the Fed-

Badham
Bafalis
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bethune
Bevill
Biaggi
Bingham
Boland
Boner
Bonker
Brinkley
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corman
Cotter
Courter
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Derwinski
Devine
Dickinson
Dixon
Donnelly
Dornan
Early
Fary
Fazio
Fenwick
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Garcia
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hall, Ohio
Hamilton
Hammer-schmidt
Hance
Harsha
Hawkins
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Huckaby
Hutto
Ichord
Ireland
Jeffries
Jenkins
Johnson, Colo
Kemp
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKinney
Madigan
Marlenee
Martin
Mathis
Mattox
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Obey
Ottinger
Patterson
Paul
Petri
Peyser
Preyer
Price
Pursell
Rahall
Rangel
Richmond
Campbell
Carr
Collins, Ill.
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dicks
Dingell
Dodd
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Emery
English
Erdahl
Erlenborn
Evans, Ga.
Fascell
Ferraro
Fish
Fisher
Foley
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Lent
Levitas
Lloyd
Lott
Lundine
McHugh
McKay
Maguire
Markey
Marks
Marriott
Matsui
Mavroules
Mazzoli
Mikva
Mineta
Mollohan
Moore
Moorhead, Pa.
Nedzi
Shannon
Simon
Skelton
Smith, Iowa
Snowe
St Germain
Stack
Stangeland
Steed
Studds
Synar
Tauke
Thompson
Traxler
Trible
Ullman
Vanik
Vento
Volkmer
Walker
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wolpe
Wydler
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—22

Andrews, N.C.
Annunzio
Bolling
Brown, Ohio
Conyers
Davis, S.C.
Dellums
Derrick
Diggs
Findley
Flood
Forsythe
Giaimo
Hall, Tex.
Johnson, Calif
Pepper
Rodino
Satterfield
Treen
Udall
Vander Jagt
Wilson, Bob

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Conyers for, with Mr. Johnson of California against.

Mr. Dellums for, with Mr. Pepper against.

Mr. Hall of Texas for, with Mr. Flood against.

eral role in education or if it would endanger our parochial and private school system. Accordingly, I would like to direct several questions to the committee chairman and engage in a brief colloquy so that we can have these answers on the record.

First of all, will the Department of Education under this bill be neutral in our educational system, favoring neither public nor private schools?

Mr. BROOKS. If the gentleman will yield, I certainly think so. H.R. 2444 makes no differentiation between public and private education.

Mr. RINALDO. Will the Department of Education in any way affect or reduce the influence of parents and local school boards as those who are primarily responsible for the education of children?

Mr. BROOKS. No, I do not think that it will, and I do not think that it can. I think that the responsibility for education, regardless of any law we pass anytime, rests squarely on the shoulders of the parents of any children.

Mr. RINALDO. Will the establishment of a Department of Education in any way reduce Federal assistance to parochial schools?

Mr. BROOKS. I do not think so.

Mr. RINALDO. The gentleman answers, "I do not think so." Is it the intent not so?

Mr. BROOKS. The intent is not to at all.

Mr. RINALDO. Finally, will the Department of Education be staffed with individuals who predominantly hold one point of view, such as favoring public or private education?

□ 1800

Mr. BROOKS. It will not and I do not think it should.

Mr. RINALDO. Thank you. I appreciate the gentleman's answers to the questions.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I will be glad to yield.

Mr. ROSENTHAL. I would like to respond to the very thoughtful inquiry of the gentleman from New Jersey. Having worked on this bill for a long period of time, both last year and this year, and I want to suggest to the gentleman I oppose this bill, there is no way to responsibly answer those questions. There is no way to get an honest, forthright response to the kind of very thoughtful inquiries of the gentleman.

I am sure the gentleman answered to the very best of his sincere ability but objectively it is just impossible to assert in the affirmative or the negative answers to questions the way the gentleman framed those questions. I really do not think the colloquy that the gentleman had was at all useful.

Mr. RINALDO. Well, it was useful to this extent that the questions were carefully framed, and I am asking them for a specific reason. The gentleman is favoring a particular piece of legislation and I wanted to get the intent as envisioned, as espoused by the committee chairman, on the record.

I recognize the difficulty anyone has gard. I am satisfied with the answers. I am satisfied that the gentleman is explaining what he expects it to be.

No one, but no one, can say with certainty, "This is what is going to occur," at any future point in time but certainly he has answered the questions to the best of his ability, and he is the manager of the bill. I feel that this establishes legislative intent on his part and important legislative history.

Mr. PATTEN. Mr. Chairman, would the gentleman yield?

Mr. RINALDO. I would yield at this time to my friend from New Jersey.

Mr. PATTEN. What the gentleman is saying to me is if the gentleman from Texas (Mr. BROOKS) is head of this Department of Education, we are all right. But he is not going to be the Commissioner of Education.

Mr. RINALDO. Mr. Chairman, I yield back the balance of my time.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word.

I think the exchange that just took place is very, very significant, very important and I think it deserves a little bit more time than perhaps opportunity permits.

The inquiry by the gentleman from New Jersey to the manager of the bill, our very distinguished and lovable chairman of the committee, suggests that there are valuable questions.

The point I was trying to make to the gentleman from New Jersey, which I do not think I properly articulated, was answer himself when he casts his vote. The value judgment made by the American Federation of Teachers is that this will not be an independent Department of Education and so they are opposed to it.

The value judgment made by the United States Catholic Conference is that it will not be equal in its treatment of public and private education and so they are opposed to it.

The value judgment of most of the independent colleges and universities in this country is that the slant of the department will be toward primary and secondary education and so most of the institutions of higher education are opposed to the bill. That does not mean they are right, but I happen to agree with them. My value judgment is the bill is no good because of that but the gentleman, I think, is the one who will ultimately have to look at their opinion, the opinion of the gentleman from Texas (Mr. BROOKS), and other opinions, and make up your mind.

Mr. ROSENTHAL. My point is it may well be that your perspective and mine might be different as to the kind of things we would expect from primary and secondary schools and from higher education. The only point I was trying to make is that at this point in time there is no way to make a prediction and thus responsibly answer your questions.

Mr. RINALDO. Mr. Chairman, will the gentleman yield to me?

Mr. ROSENTHAL. I yield to the gentleman from New Jersey.

in predicting the future and predicting the direction the Department is going to take, and certainly his response to the question indicates that he does espouse a Department of Education that would be neutral.

Mr. ROSENTHAL. That is exactly the point I am trying to make. I want you to remember this bill was reported out of the committee by a vote of 20 to 19, by 1 vote.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(On request of Mr. Rosenthal, and by unanimous consent, Mr. Rinaldo was allowed to proceed for 2 additional minutes.)

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield further?

Mr. RINALDO. I yield to the gentleman from New York

Mr. ROSENTHAL. Mr. Chairman, the way the questions were framed there is no way to predict what the attitude of this department would be.

I am sure the gentleman has a very responsive, thoughtful view. It is my view that it is impossible to predict what will happen.

Mr. RINALDO. Mr. Chairman, I agree, it is impossible to predict, for example, whether or not we will be alive tomorrow, but I am not looking for predictions. I am interested in the intent of this piece of legislation. I think it is important. It is what he feels after his study, after the committee hearings, after the debate that has taken place so far. I emphasize that I want to know the intent of this particular legislation as regards the questions I asked. I feel the gentleman was responsive in that re-

that in my judgment it is impossible—maybe if the gentleman from Texas (Mr. Brooks) has a different point of view and I am sure the gentleman from Illinois (Mr. Erlenborn) has an additional point of view, but in my judgment there is no responsible way to respond to the inquiry of the gentleman from New Jersey. There is simply no way to make a prediction.

If the gentleman from New Jersey is prepared to accept the individual judgment of the Chairman of the Committee, taking into account that he is a proponent and floor manager of the bill, then I think it was a useful exchange. If the gentleman goes beyond the parameters of the responsibility as chairman of the committee then the exchange was not useful and may in effect do disservice to the legitimate intellectual inquiry of the gentleman from New Jersey.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I will be happy to yield to my colleague from Illinois.

Mr. ERLENBORN. Mr. Chairman. I thank the gentleman for yielding. I think the gentleman is exactly correct. They are the kind of questions we all must ask ourselves but I think they are also questions that ultimately we will each have to answer ourselves. It is a value judgment.

The gentleman from Texas is a good soldier, he is handling this bill for the administration and his answer to you is his value judgment and that of the administration.

As a further input to help the gentleman answer those questions that the gentleman really ultimately must an-

Mr. RINALDO. I thank the gentleman for yielding.

I recognize the difficulty in answering the questions. However, as was just pointed out by my colleague on my side (Mr. Erlenborn) it is a value question. I agree with the gentleman completely in that regard.

I also would state and take it one step further by saying that many of the decisions, many of the conclusions that we have come to on this particular legislation are probably more based on emotion than on fact.

The value judgments that he stated can be ruled inconclusive because there is no tangible language in the bill to support them.

On the other hand, I felt that the most authoritative person to respond to the questions on the record would be the chairman.

Mr. ROSENTHAL. I hate to disagree with that and indeed I do not, but I do think at this point in time having served on this committee for a period of 16 years and having seen three departments created by the Congress, it is frequently difficult to predict the actions of executive agencies once the legislation is passed.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I would be happy to yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman yielding and I think that perhaps, putting it in the context of the question or the intent which the gentleman of New Jersey has, he said that what he was really looking for was not specific predictions as to what would happen but that he was looking for legislative intent.

Mr. RINALDO. Mr. Chairman, that is correct.

Mr. WEISS. It seems to me what the gentleman from New York (Mr. ROSENTHAL) was trying to say to him was that when you have a bill reported out of committee by the margin of 1 vote, 20 to 19, the legislative intent which the distinguished chairman of the committee gave is really only his own interpretation of what the legislative intent is. It certainly cannot be the legislative intent of the 19 people who voted against the bill and it cannot even be the legislative intent of the 19 other people who voted for it.

☐ 1810

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I would like to agree with the gentleman from Illinois (Mr. ERLENBORN), my good friend. It is a question we all ought to face within ourselves, so I wish we would get on with facing it within ourselves and vote the bill up or vote the bill down and get on with other business of the House; so do not offer any more amendments just to waste time.

Mr. ROSENTHAL. Mr. Chairman, I have not offered any.

Mr. JOHN L. BURTON. I was not talking to the gentleman from New York.

Secondly, in response to the comments of my good friend, the gentleman from New York (Mr. WEISS) who said rel bill that is coming up that has got a few projects in it that I am sure we are all interested in.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield.

Mr. VOLKMER. Mr. Chairman, I would just like to know, does the gentleman have an amendment?

Mr. JOHN L. BURTON. No; the gentleman does not have an amendment. The gentleman is trying to expedite the business of the House.

Mr. VOLKMER. Mr. Chairman, if the gentleman does not have an amendment, can I go to my office and sign my mail and the gentleman stay on the floor for a while, so I do not have to run back here for a vote?

Mr. JOHN L. BURTON. I mean, as far as I am concerned, I think I could get unanimous consent for the gentleman to go to his office for the rest of the evening.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

I would just like to add what I think will be some clarifying remarks with regard to the questions and the answers. As I understood the questions from the gentleman from New Jersey to the chairman of the committee, the gentleman was attempting to determine some answers to specific questions; for example, will the Department of Education be neutral in our educational system, favoring neither public nor private schools?

I think the gentleman from Texas interesting thing that emerges from it, that with respect to each question asked I have yet to hear anyone suggest that the legislative intent stated by the chairman of the committee is different from that which was stated by the chairman of the committee.

Now, people cannot predict what the future will hold, but I think it is clear that with respect to each question asked, the neutrality of the department, whether it will reduce the influence of parents and local school boards, whether it will affect Federal assistance to parochial schools, will it be staffed with individuals who hold predominantly one point of view, I think clearly the legislative intent, and that has not been disputed by anyone, is that it is precisely as stated by the chairman.

Consequently, I think the colloquy of the gentleman from New Jersey serves a very valuable purpose in establishing legislative intent and I commend the gentleman for it.

Mr. HORTON. Mr. Chairman, I would just add further that I would agree with the answers that were given by the chairman to the questions asked by the gentleman from New Jersey.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the one thing that disturbs me as I begin to hear all this is that some of these things like the local control amendment which was put in by amendment in the committee, that the intent of the bill cannot be gleaned from the 19 members in the minority who voted against reporting it from the committee is absolutely accurate, because you do not take the losing side of a bill and say that is the intent; otherwise, every bill that is defeated or every bill that is passed, you do not ask what the purpose was the bill was passed. You go to the people who voted on the losing side and say, "What do you think about this legislation?" That is ludicrous on its face.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield to the gentleman from New York, as long as the gentleman is standing.

Mr. WEISS. I appreciate the gentleman yielding. Of course, I am leaning slightly.

I also said, and I think the gentleman will recollect, that it is almost impossible in the kind of context in which it was done, that is a 20-to-19 vote, for the chairman himself to be able to speak for the other 19 who voted with him to be able to say what their legislative intent was.

Mr. JOHN L. BURTON. Mr. Chairman, I would like to say this. My legislative intent was the exact legislative intent of my beloved chairman and my beloved ranking member and those other beloved 17 that along with those two and me made 20 that reported the bill to the floor, the only thing I would really say in all earnestness to my colleagues is let us get the bill moving so we can get along with important things, like the pork barwith regard to his answers was attempting to do was to state that when we have a reorganization bill, we are not changing any substantive law. All we are doing is setting up a new department. Whatever the law is today and whatever the attitudes are today, they will be the same as they have been in the past; so we are not changing any law. We should not be changing any substantive law in a reorganization statute.

I think it is important to that colloquy to point out that what the chairman was saying was not so much what the gentleman's opinions were or what the predictions might be as to the future, but that insofar as legislative history is concerned, we are not changing substantive law. What we are doing is proposing to reorganize or to create a new department. The substantive law will not be changed.

I think that the answers that the chairman gave to the gentleman from New Jersey were appropriate under the circumstances and they do make legislative history.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I would be happy to yield.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks.

As a member of this committee and the subcommittee who participated in the hearings and the markup of this bill and after listening to the colloquy between the gentleman from New Jersey and the gentleman from Texas, I find one very would the gentleman agree with that, that back last year when we first developed the language for this bill, that was an amendment that was added by a Member from our side of the aisle.

Mr. HORTON. That is correct, and the gentleman from Illinois (Mr. CORCORAN) who was a member of the subcommittee and a member of the full committee in the last Congress had some concern that the new Department might attempt to dictate education policy to States and localities.

As a matter of fact, the gentleman from Illinois (Mr. ERLENBORN) had articulated in the committee and in the subcommittee and here on this floor that one of the reasons he was opposed to this bill was that it would create a sort of Federal Board of Education that it would direct policy. The purpose of that amendment was to make certain that the Department was not going to have any influence over local decisionmaking in the educational process. That is why that amendment was put in. I think it was a good amendment and it is in the bill now.

Mr. WALKER. I agree with the gentleman. I thank the gentleman for that explanation.

Also, the personnel limitation that we have been discussing as one of the key features of this bill was put in by amendment. Would the gentleman agree with me on that?

Mr. HORTON. I certainly agree and I think what the gentleman is saying is that there have been good amendments put in by the Congress. I think this is good. I do not think that the Congress should be a rubberstamp for the administration on any legislation that it sends up. Legislation ought to be perused. It ought to be studied. We ought to have hearings. We ought to examine it in subcommittees and full committees and then report the bill out to the floor and go through the process we are going through now. Those amendments were good amendments.

The CHAIRMAN. The time of the gentleman from New York (Mr. Horton) has expired.

(At the request of Mr. Walker, and by unanimous consent, Mr. Horton was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for that, because the point that I want to make is that an awful lot that has been added to this bill that is now being discussed as the substance of this bill was put into it by amendment. I am very disturbed to read press accounts that things that were put in on this House floor by amendment, in some cases amendments where there was a 2-to-1 margin, are now being talked about by proponents of the bill on the outside as things that they are going to pull out in conference committee. "Do not worry about supporting this bill," they say. "We are going to take it all out in the conference committee."

I submit to the gentleman that if some about people on the outside, primarily proponents of the bill—are suggesting that the conference committee will act to pull out some things which they consider unacceptable. I think on the record it should be made clear that a lot of the things in this bill which are being discussed as positive and good may not be left in the bill.

Mr. HORTON. Mr. Chairman, there are all sorts of people who are making predictions, some of which will come true and some of which will not. That does not involve us with regard to the instant problem, which is the matter of making legislative history as far as the questions of the gentleman from New Jersey are concerned.

With regard to the colloquy with the gentleman, we have to go through the process we are going through now. If we pass this bill, we will go to conference. I assume I will be a conferee, and I assume the gentleman from Texas (Mr. Brooks) will be a conferee. We will do our best to uphold the will of the House. That is the way it works.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan: Page 72, strike out lines 9 through 12 and insert in lieu thereof the following:

Sec. 302. (a) Notwithstanding the provision of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time, on or after the effective date

was dismantled. They have been extremely successful in increasing educational achievement for thousands of migrant students at a modest cost to the Government, despite the fact that the Department of Labor's employment training orientation makes it an uncomfortable host.

It is my expectation that the new Department of Education will establish a single office to administer and coordinate a comprehensive educational delivery system for migrant children so that they will have equal access to a quality education at every level. The transfer of these programs at that time will provide the capstone to the approach embodied in the title I migrant education program.

My amendment will simply delay the transfer until it can be effectively incorporated within such an office.

Mr. BROOKS. Mr Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the chairman of the committee.

Mr. BROOKS. Mr. Chairman, I want to say that I support the amendment offered by the gentleman from Michigan (Mr. Ford). I agree with him that it is vital to the effective structure of migrant education.

I have read the amendment in full. it is a good amendment, and I agree with the gentleman.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

of those things that were decided by a 2-to-1 margin on this House floor are to be taken out in the conference committee, so can some of the things like personnel limitations, local control language, and a lot of this kind of thing, which is not exactly similar in the Senate language, but can be pulled out in the conference committee and we can lose some of these basic things that we say are vital to the bill.

Mr. HORTON. Mr. Chairman, I would like to reclaim my time.

As the gentleman knows, when we get into conference, the Senate has a bill, the House has a bill, the conferees of the House are obligated to stand for the position of the House with regard to the amendments that have been offered and the bill that is reported out. When we get into conference, we have to make compromises, whatever compromises there are will have to come back to the floor.

☐ 1820

There is no way to know now what the status of the conference will be, but that is the legislative process. I think it is inappropriate for people to be predicting what the conference is going to do. The conferees have not even been named yet. We are a little bit far afield from legislative history in this regard, although I am glad to have had this opportunity to engage in colloquy with the gentleman.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, I think the point needs to be made that some of the people—and I am not talking about people within this body; I am talking

of this Act, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303 (c)(2) of the Comprehensive Employment and Training Act.

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Chairman, I have an amendment to section 302 of H.R. 2444 which transfers two migrant education programs from the Department of Labor to the new Department of Education. My amendment does not prevent this transfer but merely delays it until an office or unit is established within the Department of Education to administer all programs designed to help educate migrant youth.

I am very grateful to the distinguished chairman of the Government Operations Committee for his cooperation in developing this amendment. His concern for and commitment to improving educational opportunities for children who are compelled to travel the migrant streams as their parents harvest our food are widely known and lauded.

H.R. 2444 proposes to transfer from the Department of Labor two programs which were originated by the Office of Economic Opportunity to assist migrant children in their efforts to receive high school and college training. These programs, the high school equivalency program and the college assistance migrant program (HEP and CAMP), were spun off to the Labor Department when OEO

Mr. HORTON. Mr. Chairman, I have discussed the amendment with the gentleman from Michigan (Mr. FORD). I think it is a good addition to the bill. I would be willing to accept it, and I urge its approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. JEFFORDS

Amendment offered by Mr. JEFFORDS: On page 72, strike out lines 9 through 21, inclusive, and insert in lieu thereof the following:

"SEC. 302. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under title II, title III, and title IV of the Comprehensive Employment and Training Act, as amended."

(Mr. JEFFORDS asked and was given permission to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Chairman, the amendment that I am about to offer is an important amendment. It is not a new proposal. It was embodied in the Department of Education bill which was suggested by one of my predecessors, Mr. Quie, some time ago.

What the amendment attempts to do is establish consistent philosophies within the Department of Education and within the Department of Labor. It says that we should transfer out of the Department of Labor and into the Department of Education those programs which are primarily oriented toward training people to be employable, and that we should leave the Department of Labor those programs which are oriented toward getting people employed who are already employable. The distinction between training and jobs is very important.

My amendment to H.R. 2444 would place vocational training programs operated under titles II, III, and IV of CETA within the new Department of Education, in order to make possible, for the first time, a sensible education and training policy.

There are three broad basic reasons for my suggestion to move training into the new Department. First in the Department of Education we now have the vocational educational programs and, of course, the other vocational training programs which deal with our schools.

In my travels recently around the country, I have visited some 10 cities and examined our CETA programs and our vocational education programs. It has come through very clearly to me that in the areas where these programs work we have close cooperation between our school systems and our CETA programs. Unfortunately, this is not true in most of the country; in fact, the opposite is true: the schools and CETA mostly fight against each other and not working in coordination and cooperation. It seems sensible to me, and to many others with whom I have talked, that if we are going to get coordination and cooperation among the people who are implementing the program, it is essential that we have eral efforts to educate and train our young people and the structurally unemployed so that they can become productive members of the work force. Vocational education and training activities conducted by the Department of Labor under titles II, III, and IV of CETA should be incorporated into the new Department together with the vocational education programs presently carried out by the Office of Education.

WE HAVE CREATED A DUPLICATE SYSTEM

As things stand now, we have a dual system for many young people, with Federal funds and Federal nonpolicy flowing into both sides: CETA programs simply take up where the schools give up, and no one bothers to see whether these efforts are coordinated or duplicate one another, particularly at the Federal level. The result is astounding waste and duplication of resources, both human and economic.

Placing all significant vocational programs together in the new Department would give us a coordinated Federal approach to one of the most difficult social problems we face today: helping youth and the structurally unemployed to join the labor force. DOL training programs are currently budgeted at $6.58 billion, $3.43 billion of which is spent directly on programs for youth. Title IV programs focus exclusively on youth and significant proportions of youth are served under titles II and III. Vocational education programs under the Office of Education are budgeted at $781 million (fiscal year 1979).

gain experience in the construction trades while finishing their educations, and are able to move into apprenticeship training or higher education, again through a program run by the schools. These programs show that the schools and CETA prime sponsors can coordinate their activities. We have yet to see the same degree of coordination in Federal policy here in Washington. The result is that it is only luck that successful programs ever get off the ground.

ARGUMENTS AGAINST THE AMENDMENT ARE WEAK

Opponents of this idea say that we are simply expanding the bureaucracy CETA prime sponsors will have to deal with. Yet, prime sponsors already have to make out separate applications for the various categorical programs under title IV of CETA, and school districts would only have to deal with the Federal agency that they already work with—education. Opponents will also claim that CETA programs, including youth programs, are oriented toward the "world of work" in a way that the supposedly more "academic" Department of Education will not be. That is exactly why we should put CETA vocational training programs into the new Department: we would like to see the Department have a realistic view of the problems faced by those making a transition into the labor force.

Opponents may argue further that CETA title IV programs are just beginning to get on their institutional feet and that any change now would be severely disruptive to the success of these programs. I disagree and submit that the that coordination at the Federal level, and at the top of that level.

The second reason is that we also have in this country a very real problem with handicapped individuals. This House yesterday overwhelmingly rejected removing the programs which help handicapped people become employable.

What this amendment does say is that we will put together under the same roof the programs which should be helping our handicapped people to become employable and to become employed.

Right now we have a serious situation in that regard. For instance, we have somewhere between 3½ and 7½ million people who are handicapped. A large number of these citizens ought to be participating in being trained under the CETA program, and I include other programs in that area. Yet the fact is that only some 61,000 handicapped—at least in the 1976 report—are being trained under our CETA programs, leaving the bulk of our handicapped outside of that training program.

The third basic reason is that creation of the proposed Department of Education raises serious questions about what genuine responsibilities the new Secretary will have. When he sits down at the Cabinet level, what will the Secretary do besides serve as an agent for income transfer programs currently under the Office of Education? As now proposed, the new Department of Education fails to address any real responsibilities for its Secretary.

One of the responsibilities of the Secretary should be to coordinate Fed-

WE MUST HAVE COORDINATION AT THE TOP

Failure to put these activities together is not only silly, but irresponsible on our part. Frankly, as I said, if we cannot coordinate our efforts at the Federal level, how can we expect our local agencies to work together? And, I might add, we do expect and tell our local agencies to work together. I submit that we in Washington should practice what we preach.

Let me give the Members some examples of what we would transfer. The youth employment training program (YETP) and entitlement program (YIEPP), (title IV, parts A and C of CETA) are perfect examples of the need for a coordinated Federal policy toward vocational and training activities that are supported with Federal funds. The amount of $110 million of the YETP's $500 million budget is already subject to the approval of local school districts. The whole point of the entitlement program is to pursuade young people to finish their schooling, by guaranteeing them a part-time job during the school year and by providing alternative schools and GED programs as acceptable schooling.

I have recently visited ten cities around the country where these programs are in operation. The most successful programs are those where schools and prime sponsors do work together. In Albuquerque, young parents are able to find day care for their children, finish high school, and earn money through a program coordinated and staffed by the local school system. In Portland, Oreg., young people

opposite will occur: the success of these programs may well be enhanced with increased coordination efforts. Moreover, it is far better to seek greater coordination with the schools now than after these programs have become completely entrenched in the Labor Department. Let me emphasize, however, that I am not, in any way, requiring programs to be placed in schools, but rather am suggesting that Federal policy regarding vocational and training issues all originate from the same Department.

Why do these things occur? It is primarily because the Department of Labor has a philosophy—which is correct with respect to title VI public service employees, and in title VII to the private sector employment provisions of that act—that its primary function is to see how many people it can get into jobs. What this leads to is a "creaming" process that is taking those people who are most employable and fitting them into slots so that at the end of the year they have statistics which indicate a successful job.

That does not provide the kind of incentives we need to provide the programs and the incentives to get the people to work, to get the people who need to be trained to be employed.

So the basic thrust of my amendment is to put within the Department of Education those programs which are training people to be employable.

So, Mr. Chairman, to summarize briefly, the purpose of this amendment is to clearly establish a philosophy that those people who need to be trained to be employable—the handicapped, the disadvantaged, the people who have dropped out of our system—should be under one roof, and that we should leave in the Department of Labor those programs which emphasize employing the employable. That is the purpose of this amendment, and that is its function.

For all these reasons and more, I urge you to support my amendment. If we create a Department of Education, let us make it meaningful by giving it a real mission: educating and training young people to hold useful jobs. Let us give the Secretary of Education something to do that certainly needs to be done.

Mr. HAWKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I regret that it is necessary to oppose the gentleman from Vermont (Mr. JEFFORDS) who is a very valuable member of the subcommittee on employment opportunities. However, it seems to me that this is a matter which should be discussed on its merits and not as part of a strategy, a political strategy to defeat another issue.

It would seem to me that if this is a good idea, then it should be the basis of a bill that would be introduced and pushed and advocated quite apart from whether there should or should not be a separate Department of Education.

I think this is somewhat akin to booking passage for someone who is close to one on a ship that one is trying to wreck.

I am confident that those who are advocating this in this instance—and this does not go to the question of the up or down we could rapidly put into operation these programs.

I think it is most unfortunate that we find it even necessary to defend this concept against this type of amendment.

The question has been raised about linkage between education and manpower. This was mandated in the act last year. We are beginning to get that linkage. This morning, in the hearings before the Subcommittee on Employment Opportunities at which the gentleman from Vermont was present, we had persons from vocational education testifying not against the linkage, not against CETA, but telling us that they were beginning to work with the CETA people in order to make this linkage real. And here it is that we would move this afternoon to set that encouraging sign aside, to ignore it. These efforts are already beginning to bear fruit. The act itself has a 22-percent set-aside to bring in vocational education and other phases of education. And a 1-percent set-aside so that the State administration, State administrations throughout this country, could provide that linkage. And here we are beginning to destroy.

Now, it seems to me, is not the time to disrupt the building of this great insurance, I think, against increasing unemployment and a recession.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(On request of Mr. BROOKS and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. BROOKS. Does the gentleman agree with me that if you transfer this, you will be transferring matters of little relationship to education?

Mr. HAWKINS. That is correct. It is no more educational than most any other thing. Education spreads throughout this society. If you wanted to use that as a test, you have to transfer almost everything in which we are engaged.

Mr. BROOKS. And the program has had plenty of trouble. They are trying to resolve the difficulties of it and the management of it in the Labor Department?

Mr. HAWKINS. That is correct.

Mr. BROOKS. And it ought to stay there?

Mr. HAWKINS. It ought to stay there. And we have provisions about fraud, mismanagement, and the other provisions in order to control these programs and to prevent abuse, which are in other titles of law that would be left in suspension without these amendments if we approved such transfer.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I am pleased to take a few moments and ask the chairman of the subcommittee if he would be willing to respond to a couple of questions that I may have?

Mr. HAWKINS. Yes, I will be glad to.

integrity of those who may be advocating it—are not advocating it merely to transfer it but really to use it as a ploy. I thing that is most unfortunate. We worked for a long time to obtain a comprehensive, coordinated, and integrated manpower policy.

☐ 1830

In this amendment we would go in the opposition direction of splitting up such a policy and taking a part of it and putting it piecemeal into a Department of Education and leaving the rest of the policy spread throughout other Departments.

You may ask: Why is not title I, title V, title VI and title VII equally relevant to a Department of Education?

This House last year decided on a package, in which the gentleman from Vermont participated, and, as a matter of fact, took the initiative in working out a system, whereby we would try to eliminate waste and fraud.

Most of this is in title I. It will not be transferred under the amendment.

So we are, in a sense, splitting off one of the very things we have worked for a long time to get into the package. We would also split off the initiative toward the private sector, relating these programs to the private sector, which is included in title VII, which is not included in this amendment.

So this is but a fragmentation of all the efforts we have put forward in the last decade to get a comprehensive, integrated manpower policy within a stabilization context in which we would use it in relationship to monetary and fiscal policies so that as the economy moved

utes.)

Mr. HAWKINS. Mr. Chairman, at the very time when the Congressional Budget Office has indicated that unemployment is likely to go up to 7½ percent, at a time when we are being advised that we may face a recession this year and next year and that unemployment may go up to 7½ percent, when these programs will be particularly needed, when local prime sponsors, cities and counties and States, are moving ahead in order to make contracts to do the planning in order to avoid the disruption that may be brought about as a result of these economic conditions, we are now saving we are going to change the signals, when private sector is saying to us here in Congress, "Look, you have been hesitant too long and we are not going to put private money into these programs unless we know what the program is going to be." We are making in answer to these efforts more and more changes.

We cannot commit the private sector to what may be a changing scene, that we may change next month or the month after, and we are discouraging their effort through making all of these changes. And now we intend to make one of the most decisive changes we could possibly make. I think this is not the time to do it. I think it is most unfortunate. I think we should address the merits of the matter itself and not use this as another strategy in an attempt to misguide and mislead the body in what I think is a most insane direction.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Texas.

Mr. JEFFORDS. First of all, I think the colloquy the gentleman just had with the chairman of the subcommittee has indicated that the programs which are being shifted here have little relationship to the educational process. I would like to ask if we are not, under title IV, for instance, transfering the YEPT program, which is the youth employment training program, which is primarily involved with the school system; is that correct?

Mr. HAWKINS. Yes. It certainly involves the school systems, but it also involves the private sector and it involves the employment services. It is part of a package. And, sure, there is an educational component. But you do not have the placement activities, you do not have the counseling of the employment service, you do not have a link with the private sector that we are trying to build.

Mr. JEFFORDS. Is that any different than the vocational education program and the cooperative program that we have in vocational education which are working with the private sector in attempting to find vocational education jobs?

Mr. HAWKINS. No, it is no different. But the vocational educators are not in here supporting this amendment.

I would say that those who testified in the hearings this morning, at which the gentleman was present, as well as others, have not testified in support of making this change. They have indicated they are beginning to build that linkage.

Mr. JEFFORDS. Many of the people are in the closet. I have had word from many of these people who do support it. They have many problems, as the gentleman does, recognizing that this ought to be done. But they are concerned about what it does to the passage of the bill. I say we ought to be more concerned about what we are doing to the bill to make it more effective if it passes. And certainly I know our former colleague, Mr. Quie, and others, last year thought this was a good idea. I think it is a good idea. The only problem with my amendment is it appears to be too good.

Let me ask the gentleman another question. Am I not correct that the gentleman and I joined in a letter just the other day to the Department of Labor, criticizing them for their discrimination against the handicapped in their regulations? We did that, did we not?

Mr. HAWKINS. Yes, we did.

Mr. JEFFORDS. And is it not true, also, that we have criticized them in title VI because they have taken what this body proposed last year, and that was to provide incentive for more training in title VI, and we said that not less than 10 percent of the money in title VI shall be used for training, and the Department turned around and read that, at least according to the evidence before our committee, it would be not more than 10 percent in title VI that should be used for training; is that correct also?

Mr. HAWKINS. That is correct. I am not satisfied with the administration of the present act. I think there are many things that we need to do in order to correct these things. I think we would have the same problems with the new sonably accurate—and I am not going to go into whether it is or not—would the gentleman think that the physically handicapped people, or those who represent them, would take a position on the amendment the gentleman is proposing? Would the gentleman not expect them to be in here supporting it and to indicate to us that they would support it?

Mr. JEFFORDS. I have no indication whatsoever that they do not support it. In fact, I have not had any indication from the groups that I have talked to that anyone does not support it. I would expect the handicapped groups would support it. The main concern seems to be will it help passage or not. I think that ought to be irrelevant at this point. We ought to act responsibly and get the best bill possible, then decide as to whether it ought to pass on its merits.

Mr. ERLENBORN. Mr. Chairman, if I might recapture what is left of my time, let me say that reference has been made to the fact that our former colleague and dear friend, now Governor of Minnesota, Al Quie, supported the concept of a Department of Education, but conditioned his support upon the inclusion of education-related education and training programs in the Department of Labor.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

vocational training programs operated under titles II, III, and IV of CETA within the Department of Education.

As you know, last year after much debate, Congress approved legislation—now Public Law 95-524—extending the Comprehensive Employment and Training Act (CETA) through fiscal year 1982. Let me just briefly read from the "statement of purpose" that is the foundation for this massive program.

> It is the purpose of this act to provide job training and employment opportunities for economically disadvantaged, unemployed, or underemployed persons which result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated, and decentralized system of Federal, State, and local programs.

The amendment now before us presents a very simple, but vitally important question; that is, should the emphasis be on the short-term job a CETA participant holds while receiving needed training, or on that training, which, in turn, prepares the participant for long-term employment. It seems to me that the answer should be loudly and clearly in favor of lasting, meaningful and productive jobs.

Under the CETA renewal, participation in employment and training programs is limited to 2½ years during any 5-year period, and an individual may hold a public service employment (PSE)

Department. We would still have to monitor the new Department. We may have more trouble with it.

May I say, if the gentleman's argument is valid, is the gentleman supporting the bill if this goes in?

Mr. JEFFORDS. Yes, if this amendment passes I will support the bill.

Mr. HAWKINS. If this does not, the gentleman will not support the new Department?

Mr. JEFFORDS. That is quite possible. I have not made up my mind about it. I will definitely support it if the amendment passes. I may not support it if it does not. And I just want to let the gentleman know that I propose this amendment in good faith. To me, without this provision in here, we have neglected the most important problem in this country today, and that is youth unemployment. We must have a coordinated attack against youth unemployment; we must do something constructive. The same thing is true with our handicapped who have been neglected, especially by the Department of Labor, as the gentleman recognizes, which has been discriminating against the handicapped. Although there is an equal number of handicapped people available to be trained in this country as there are unemployed nonhandicapped less than 4 percent of the CETA trainees are handicapped. This is a disgrace to that Department and which is a disgrace to the Federal Government in its attempts to handle the handicapped and the serious youth unemployment problems.

Mr. HAWKINS. May I ask the gentleman if the gentleman's statement is rea-

Mr. ERLENBORN. I think that we all know that the CETA program has been and is in trouble, and one of the principal reasons is that in the administration of the program in the Department of Labor, jobs—public service jobs—have been the cornerstone of the program.

☐ 1840

The administrators in the Department of Labor have thought very little about education and training. Now that is exactly what this program is supposed to be about. The core of it should be education and training, but it has been turned into a massive public public service job program. It has been turned into backdoor revenue sharing—a boondoggle, very plainly, in many of the large municipalities in this country.

I think the shift of the CETA program to the Department of Education (should such a Department come into existence, God forbid) would at least put the proper emphasis on the CETA programs. That is on education in general.

Mr. FASCELL. Mr. Chairman, would the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from Florida.

Mr. FASCELL. How many dollars and how many people would this amendment transfer?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

Mr. PURSELL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Vermont to place the

position for no more than 18 months at any one time. Furthermore, strict limits are placed on CETA wages. For example, PSE wages must average $7,200 annually on a national basis, with a $10,000 ceiling. Such provisions certainly were not imposed by Congress to take emphasis away from the training aspects of CETA, but rather to make them its central theme.

We have all heard the axiom "give a man a fish, and he can eat for a day, but teach him to fish, and he can feed himself for a lifetime." Of course, one must continue to eat while he is being taught, so we need to provide short-term employment during this period. However, we should never lose sight of the ultimate goal.

Because most jobs are found in the private sector, the most significant way to make progress against unemployment is to increase employment opportunities in private industry for the jobless and economically disadvanvantaged. In recognition of this, Public Law 95–524 established the private sector initiative program (title VII), under which CETA prime sponsors must set up Private Industry Councils (PIC's) to encourage private sector participation in CETA programs.

As a member of the Education and Labor Committee, which considered this legislation initially in the House, I was successful in securing approval of two amendments designed to help put CETA back on the "training track." One of the amendments requires that at least half of the businessmen serving on the PIC's be representatives of small business, those enterprises employing not more than 500 individuals. The other mandates that the PIC's include representatives from educational institutions. In addition, I participated in formulation of the so-called "Quie amendment" that requires all prime sponsors to actively seek involvement of local educators in designing programs under title VII, as well as all other titles.

Adoption of these amendments were small, but important, steps to stress the training aspects of CETA. We have an opportunity to take an even larger step in that direction today by adopting the Jeffords amendment.

The House Appropriations Committee, on which I now serve, last week recommended close to $1 billion in Federal funds for occupational, vocational and adult education programs during the upcoming fiscal year. In addition, $20 million was recommended for implementation of the new Career Education Incentives Act. As I sat through the hearings on these programs, I often wondered how effective this money would be in preparing students for meaningful jobs. By involving educators more deeply in the employment aspects of CETA, we can not only increase the emphasis on training, but, just as importantly, bring the "real world of work" more directly into the classroom.

No area of Government is closer to the people than is education. The legislation we are considering today emphasized this by stating that "the primary responsibility for education resides with States.

Under part B, it is $415 million (Job Corps), and under part C (summer job programs), it is $533 million, including carryovers.

With respect to personnel transferred, the number might be slightly different, but we have received these estimates: under title II there would be around 1,000 people; under title III, there are about 100 people, and under title IV about 360 people.

Mr. PURSELL. I thank the gentleman.

I think that I have a minute left, and I would like to reclaim my time. You can give a man a fish, and he could eat for a day, but if you teach him how to fish, he can live for a lifetime.

Mr. GREEN. Mr. Chairman, I rise in support of the amendment.

(Mr. GREEN asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Chairman, if one asks people in the educational establishment why students' scores on aptitude tests are down or why a significant percentage of the students whom we are turning out are at best semiliterate, one is told that it is the breakdown in the family, it is the breakdown in respect for authority, it is the prevalence of drug use, it is the fact that so many people are watching TV instead of reading. In short, it is all of the social factors that impinge on education.

Thus I oppose this bill, because I think the real need is to end the isolation from the rest of HEW that the educational establishment has succeeded in forcing

I think that the amendment of the gentleman from Vermont goes a long way toward achieving that goal or at least putting in place the kind of Department of Education that could help achieve that goal.

I think that any Member concerned with the problems of minority youth unemployment in this country ought to vote for this amendment.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, yesterday in our Committee on Elementary, Secondary, and Vocational Education, we were hearing testimony about the relationship of vocational education to the CETA programs. One of the remarks made by one of the superintendents was that they are having trouble filling slots in relationship to the CETA money that they have for the training programs, and he said that one of the reasons they were having that problem is that a youngster or young man or young woman must go to four and five different agencies in order to bring about this program, and that they do not have that kind of stick-to-itiveness, nor do they, in many instances, know exactly where to go.

□ 1850

It seems to me an amendment like this would help that superintendent bring under one roof the opportunity to fill those slots because a lot of the redtape would be eliminated and a lot of the bureaucracy and the different organizations that this young person must go to would be eliminated.

localities and private institutions." By adopting the Jeffords amendment, we can help our schools in fulfilling this heavy responsibility, as well as provide a more coordinated, effective approach to reaching the objectives of CETA I quoted earlier.

We will not meet these important goals through disjointed efforts by various agencies.

We will not meet them by quibbling in jurisdictional disputes.

We certainly will not meet them by emphasizing $7,500 jobs that last no more than 18 months.

However, we can take a very significant step by voting for the amendment of the gentleman from Vermont and putting the stress on training for lasting, meaningful employment, that is an essential ingredient in the American dream.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I would like to answer the question asked of me about what this would mean in terms of the transfer funds and personnel.

First, under title II, the transfer of funds under parts A, B, and C would be $2.054 billion—fiscal year 1980 budget—and under part D, $2.16 billion—fiscal year 1979 carryover.

With respect to title III, it is $371 million.

With respect to part A of title IV, it amounts to $134 million for YCCIP projects, and $533 million for the YETP program.

on the Office of Education, rather than to isolate education still further from those elements of the Federal Government, centered in HEW, that deal with those social problems that afflict education.

If the opposition that I have and others have to this bill fails, I think that this amendment is at least a step in the right direction, because surely everyone will agree that one of the key roles of education in our society is to prepare people for gainful employment.

Just a few weeks ago, we had testifying before the Select Committee on Aging, in a hearing relating to the midlife problems of women, the president of one of the leading temporary office employee firms in this country. He told us that, in the midst of an era when there is high unemployment among young people, it is very difficult to find qualified people for office work. In a colloquy between him and me, because I am a member of the committee and I was at that hearing, we agreed that there obviously must be a misdirection in the resources of our educational system if on the one hand we have this enormous unemployment centered among young people, and particularly minority young people, and at the same time we have office jobs going begging in this country for lack of people with the skills to fill them.

So I think it is very important, if we do create a separate Department of Education, that it should have responsibility and accountability for educating our children so that they can hold down the kind of useful jobs that will be available in our society.

In fact, he said in his statement he really believes if the vocational educational people had a little more say and a little more authority in this business of CETA, in this business of training youth for employment, and we were particularly talking about the 18- to 24-year-old group, he believes that they could not only fill those slots, but they would have many more people requesting that kind of training. At the present time, he said, he was unable to do the job and, therefore, those same young people, not all disadvantaged young people from the standpoint of money disadvantage, but young people who started out in an academic program and then discovered that is not for them, so they really had no skills in order to go out into the work world were not taking advantage of the program. I would think an amendment like this would in some way bring about a better program so that these young people would not have to seek many different agencies, but could go basically to one because the program would be under one roof.

Could the gentleman from Vermont comment on that. I yield to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. First, I certainly agree with what has been said. Of course a lot has been made out of confusion, but actually we are going to transfer the bulk of the people over that are dealing with those people anyway. But, what we are going to do is put someone at the top who is going to be overseeing both programs which will put him in a position to eliminate the duplication of work and eliminate the problems with paperwork we have now, and also work to coordinate programs to get more efficiency out of our programs.

I think also I would like to emphasize again that we are making a distinction here of putting under one roof the programs which are training people to be employable and separating them away from the programs which are just oriented to getting people jobs. There is a lot of difference between finding a person a job and putting a person in a position to have a job.

Mr. FUQUA. Would the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Florida.

Mr. FUQUA. I might point out to the gentleman, I am sure he is aware that within this bill there is an Assistant Secretary dedicated to vocational education, so I think some of the remarks the gentleman is concerned about, some of the concerns are answered.

Mr. GOODLING. The Assistant Secretary dealing with vocational education is not necessarily involved in CETA in relation to vocational education.

Mr. FUQUA. It could under the organization. It could.

Mr. GOODLING. It could.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

I am speaking in support of the amendment on the basis of what has

How can one expect to give the young people the necessary tools unless they have the coordination with the education facilities they need in order to get where they are trying to go? I think the time has come, especially when Federal programs are not working up to par, when we must not be afraid to reassess, revitalize, restructure if necessary and perhaps turn in another direction.

I speak on the basis of my experience as an educator, having deep concern in terms of what is happening to many of the young people in this country.

Mr. HAWKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, may I say, out of the great respect I hold for the view of the gentlewoman in the well, that this question is not intended as, in any way, to speak to the integrity of the lady.

Is it not true, however—and I agree with virtually everything the gentlewoman has said, and I commend her on the great experience she has had in the field of education—realizing the importance, however, of what she has said, is it not strange, therefore, that she does not intend to support the bill if this amendment succeeds? Then, what becomes of the argument that she has used that this is so vitally necessary that she would not support the bill that provides the very vehicle for implementing what she has said?

Mr. Chairman, let me say at the outset that I am opposed to the bill before us. I voted against it in committee last year; I voted against it in committee this year, and I continue to oppose it. But, I must say that, again without questioning motivation or integrity, it occurs to me that this particular amendment may end up doing great harm to to the cause of those who are in favor of the bill.

As Mr. HAWKINS indicated earlier on, I guess in the overall scheme of things one could say that just about anything that deals with life has to do with education. We are constantly learning and, therefore under that concept or definition just about everything could belong in the new Department of Education. But, it seems to me that we can sometimes go too far. Here is a very major amendment which has never really been considered in any way at all; certainly, in no depth.

There were no hearings on it in either of the committees—that is, either in the Government Operations Committee or in the Education-Labor Committee. Now, we are about to, on a very superficial, perhaps even cavalier basis, consider moving the Comprehensive Employment and Training Act programs, with the exception of the public service title and the audit and inspection and enforcement title into the Department of Education.

☐ 1900

Talk about not thinking through what

been occurring in many of the programs where the young people have had to move from three and four different places in order to acquire what is necessary to get a job. I am speaking on the basis of experience.

Many of our mayors and our Governors in terms of getting the funds do not have the same kind of basic interests in the very specific educational needs of young people in this country who lack the requisite skills to function in an automated and technological society. We recognize that the mayors and the Governors have very, very definite goals and definite responsibilities, and perhaps the needs of the youngsters are not in their list of top priorities.

One of the reasons that we are having tremendous difficulties in the areas of work insofar as many of our young people are concerned is the lack of coordination between the education they are getting and the training that would emanate from this education for the jobs that are acceptable and available in the market. The left hand does not know what the right hand is doing at this juncture. I know my good friend, Gus HAWKINS, is a little bit perturbed with me in taking this position.

But, there comes a time when, friend or no friends, one has to speak on the pragmatism and practicality of the particular issue. The fact is, there is no coordination between the education of many of these young people and the kind of jobs that are acceptable and available to the communities. I speak about this on the basis of the experiences I have seen taking place in this country.

Mrs. CHISHOLM. The bill is not composed of only one particular segment. The bill has a composite of factors that puts me in the position of not supporting the bill, because I deeply believe that this is not a comprehensive education bill in terms of speaking about a separate Department of Education. Many of the important programs that deal with children should be incorporated in this separate Department of Education, and are not a part of the Department of Education they are about to set up. There are over 50 different kinds of programs that have not been put into this separate Department that have a direct bearing in terms of potential training education, so there are many reasons why I am not supporting the bill.

Mr. HAWKINS. If the gentlewoman will yield further, what she is saying is not that important for us to overcome her opposition to the total provisions in the bill in order that this fine section that she is talking about would then come into reality.

Mrs. CHISHOLM. Let me say to the gentleman from California that the bill has several things that have been put in and taken out. There are musical chair games being played all over this bill from its inception. My opposition to the bill stems from a combination of factors, not one or two factors. I think many persons know since the very beginning. I have had a deep opposition to this bill based on several factors.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

the real purpose or function of the Department of Education may be. There have been many expressions in the course of these past few days that one of the concerns that people have about the Department of Education is that it may start undertaking a mission which nobody intended for it, but because it exists as a department it has to find something to do. It has been established, that as to educational matters, it cannot get into policysetting areas, because educational policy is left to the States and the localities. Now we are going to give it a mission so that the Department would have the perfect right under the aegis of the broad Comprehensive Employment and Training Act to set policy at a local level. It would not in education, but in training for jobs. I think that would mark a very dangerous intrusion for a Department of Education.

I have no problem with having close coordination, even closer coordination by far than exists right now between education and jobs. We are building that kind of coordination under the legislation that was passed in 1977. The cooperation and coordination between the school systems and the Department of Labor, the manpower program people, have never been better. No matter which department has the control at the local level or at the national level, the fact is that we still are going to require coordination between the Department of Labor, who are the people basically responsible for jobs, and the Department of Education, which has the responsibility ultimately for providing some funding for educational purposes. At the local level certainly there is always going to have to be a divided area of responsibility and coordination between the Department of Labor and the schools. So we are not solving that problem simply by shifting the programs which belong now and which ought to continue to belong under the jurisdiction of the Department of Labor into the Department of Education. All that we would be doing is shifting the person who is going to be top dog in title, but as far as the kids or the adults—and we are not talking only about youth programs in CETA but also about adult job training——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. WEISS. As far as the trainees, both youth and adults, are concerned, they are still going to be subject to the dual jurisdiction of labor and education, because they will be looking not just for training but they will also be looking for jobs.

It seems to me that if there is any justification for transferring more of these programs into the Department of Education, we ought to wait until the department is operating. Perhaps what is suggested by the amendment is that CETA is going to be a permanent program. If I felt that all supporters of this amendment were opting for a permanent CETA program, maybe I would support it. But we know that that is not the case. It seems to me that what we would be doing taged, the dropouts, and the handicapped.

Mr. WEISS. If the gentleman will allow me to reclaim my time, that is not my experience with the Department of Labor. Yes, they are concerned with title VI, but they are equally concerned, and certainly the people in my area are equally concerned, with title II.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. JEFFORDS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 232]

Abdnor
Addabbo
Akaka
Burgener
Burlison
Burton, John
Edwards, Okla.
Emery
Erdahl
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento

wittingly or unwittingly is to cause and to create great mischief. Let us not do it.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

First of all, I would like to point out that we are not in any way destroying the situation we have now where we are dealing through the prime sponsors. All we are doing is creating a better linkage and better policy control over those functions that have to work closer together. That is the training functions that now operate outside the schools, the CETA programs, so that they can have better coordination with schools or vocational education at that level. Each should work to supplement each other, not to work against each other as is the case in most of the country.

Mr. WEISS. I do not see why we are creating better linkage simply because we say CETA now is going to be in the Department of Education rather than in the Department of Labor. They are going to be the same trainees.

Mr. JEFFORDS. The reason for it is the attention of the Department of Labor right now is all focused on title VI, trying to find some $2 billion that is floating around. They do not know where it is in the pipeline. They are trying to figure out why they did not have some 200,000 job slots filled. The whole emphasis is to fill jobs and get their statistics in line. The easy way to do that is to ignore the tough cases; the disadvan-

Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Runnels
Russo
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1920

The CHAIRMAN. Three hundred ninety-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Vermont (Mr. JEFFORDS) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 265, not voting 24, as follows:

[Roll No. 233]

AYES—145

Abdnor
Addabbo
Albosta
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bauman
Bedell
Bennett
Bereuter
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Daniel, R. W.
Daschle
de la Garza
Derwinski
Devine
Dickinson
Dornan
Downey
Emery
English
Erlenborn
Fenwick
Fish
Florio
Frenzel
Gradison
Gramm
Grassley
Green
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hillis
Holt
Hopkins
Hughes
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Kelly
Kramer
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Livingston
Loeffler
Lungren
McClory
McDonald
McEwen
McKay
Madigan
Maguire
Marlenee
Martin
Michel
Miller, Calif.
Miller, Ohio
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Obey
Panetta
Paul
Pursell
Quayle
Railsback
Regula
Robinson
Roth
Rousselot
Runnels
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Staggers
Stangeland
Stanton
Stark
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Walgren
Walker
Wampler
Whitehurst
Whittaker
Williams, Mont.
Wyatt
Lederer
Lehman
Leland
Lewis
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O Brien
Oakar
Oberstar
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Rudd
Russo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Solarz
Spellman
Spence
St Germain
Stack
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—24

Anderson, Ill.
Bolling
Conyers
Davis, S.C.
Derrick
Flood
Forsythe
Gilman
Johnson, Calif.
McKinney
Royer
Slack
Treen
Udall
Vander Jagt

bill is we have transferred from the National Science Foundation the science education program to the Department of Education. As I see it, what it does is further deconsolidate our science education programs.

First of all, I would be opposed if we transferred all the science education programs, but I am even further opposed to what we have done in this bill and that is that we have segmented some and transferred some to the Department of Education but left others in the National Science Foundation.

Second, the prominent place that science education has in the National Science Foundation will not be the same as it would be under the new Department of Education. For example, right now, out of six directors in the National Science Foundation, one full director is in charge of and has responsibility for science education. Almost 9 percent of the NSF budget is for science education. Just the opposite would be true under the Department of Education. Less than one-half of 1 percent of the entire budget of the Department of Education would go for science education. It would be so small and such a small part of this entire vast bureaucracy in the Department of Education that I am afraid science education would simply fall through the cracks. I do not believe we can afford that in this country at this time.

To be sure, the Department of Education will have an Office of Research and Improvement, but under this bill all re-

Gingrich
Glickman
Goldwater
Goodling
Mitchell, N.Y.
Montgomery
Moore
Wydler
Wylie
Zeferetti

NOES—265

Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Coelho
Collins, Ill.
Conte
Corman
Cotter
Courter
D'Amours
Daniel, Dan
Danielson
Dannemeyer
Davis, Mich.
Deckard
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzales
Gore
Gray
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hutto
Ireland
Jacobs
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, La.

Diggs
Early
Findley
Mathis
Pritchard
Rose
Williams, Ohio
Wilson, Bob
Wilson, C. H.

Mr. HOLLENBECK and Mr. DECKARD changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1930

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment..

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 73, beginning on line 22, strike out all of section 304 through line 21 on page 74 and redesignate the following sections and conform the table of contents accordingly.

(Mr. HARKIN asked and was given permission to revise and extend his remarks.)

Mr. HARKIN. Mr. Chairman, my amendment deletes from the bill the transfer of the science education program from the National Science Foundation to the Department of Education.

Why should we want to keep the science education program in the National Science Foundation?

First of all, I would like to ask the attention of the members of the committee who are here on the floor. I would ask for their attention because this has to do with what is going to happen to science education in our country, what is going to happen to the teaching of our young people in this country, and what will happen in teaching them science education in the future.

Basically, what we have done in this search stays with the National Science Foundation and does not go with the Department of Education.

Why is this unique? Why do I feel that the program of science education is so unique and so different from the other things that are going into the Department of Education?

Basically, it is because of the interdependence between science research and science education.

I would like to read from the testimony of Dr. Thomas Wenzlau before the Committee on Government Operations. Dr. Wenzlau testified on behalf of the Associated Colleges of the Midwest and the Great Lakes Colleges Association, and I believe he really pinpoints and puts his finger on the essence of my amendment. Dr. Wenzlau said this:

> Clearly the quality of a research scientist will be contingent on the quality of his or her early science education. That, in turn, depends on the opportunity for practicing researchers and science educators to have frequent and continuing contact with one another. As the level of science education advances, it becomes increasingly difficult to distinguish between science education and research. At some point in the process, scientific research actually becomes science education.

So a principal concern, one of the six principal concerns of the National Science Foundation, is research and science education. But, as I said, the Department of Education could not give science this high priority because it does not have the basic research arm, and science education will be buried in some other department.

So for this reason, because of th-uniqueness of it and because of the close correlation between science research and science education, I believe it must remain in the National Science Foundation.

Basic research is an integral part of science education. To separate them out would reduce the quality of both.

Time and time again this House has spoken out strongly, both in authorizations and in appropriations to keep a high level of basic research in this country. So this interdependence, I believe, distinguishes this science education part from all the other things we have talked about and put into the Department of Education.

One other reason why I feel so strongly that this ought to be kept in the NSF has to do with accountability. I would like to quote from a letter that I received from Dr. Lynn Glass, a constituent of mine and a teacher at Iowa State University. He speaks to the issue of accountability, which I do not believe will happen in the Department of Education.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 4 additional minutes.)

Mr. HARKIN. Mr. Chairman, I quote from Dr. Glass' letter as follows:

"A second area of concern is in the area of accountability. The relative size of the Science Education Directorate"—(in the National Science Foundation)—"permits the Foundation staff to become very well ac-

Especially at this time in this country, I do not believe it is wise to place the future of science education in jeopardy. We face immense scientific and technological challenges in the future. Let us keep our science education programs where they are meaningful, where they are consistent and coordinated with scientific research, where they have high visibility and support, and where they have the proper direction.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I think the gentleman from Iowa (Mr. HARKIN) has offered a very important amendment.

Today we have real problems with attracting the right kind of scientists and engineers with the very disciplines we need to overcome and solve many of the problems that confront this Nation.

It is very important that the dollars and the problems be coordinated together. They will get lost completely if they are transferred to the Department of Education, with this immense budget and other interests. Science and engineering, those things that are going to solve problems in this country, need to be monitored and coordinated very closely.

Mr. Chairman, I think the gentleman has raised a very important point, and I urge support of his amendment.

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worthy programs may not survive the transfer because the strengthening and promoting of science is not a primary aim of DOE. However, these are primary aims of NSF and these programs should remain under their jurisdiction.

For science education to benefit science as well as for science to benefit science education an intimate association must be maintained between the two. Science education must reflect current scientific knowledge and techniques and these in turn must be closely linked with scientific research. Furthermore, the health of science education itself demands a special association with the practioners of science.

It should further be noted that the Committee on Science and Technology noted in its committee recommendations that no funding should be transferred from NSF to DOE. Let us not act hastily on this matter and maintain the prominent position of science and science education in this country. Progress in science education must be continued and will be if maintained within NSF. If transferred, the quality, accuracy and advancements of science will be greatly impeded or reduced. Science education does deserve the special attention it receives within NSF and I therefore urge favorable consideration of the amendment presently before us.

Mr. HARKIN. I thank the gentleman for his remarks.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

quainted with all aspects of every project they fund. I have had Dr. Theodore Reid from the foundation approach me at professional science teachers meetings," for example, "national meeting of the National Science Teachers Association, and ask me how some specific aspect of my project was working. Personnel attention by Staff members to projects they are funding would not be possible in the much larger Department of Education."

So from the standpoint of accountability it ought to be kept in the National Science Foundation.

Let me point out one other thing. In the National Science Foundation Organic Act the National Science Foundation is charged—and I quote—"to strengthen science education programs at all levels."

No proposal before the House or the Senate proposes to change that charge to the National Science Foundation, and no such charge exists in the proposed new Department of Education.

The Members may ask, who supports my amendment? If they see my hand out, practically everybody who is involved in science and who is not closely connected with the new department or with the administration.

Every previous science adviser to the President of the United States supports keeping science education in the National Science Foundation.

Finally, just to reiterate what I have said, I do not believe that science education can be segmented. It is a continuum of learning, of teaching, and of research. One feeds on the other, and each supports the other.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the distinguished ranking minority member on the Subcommittee on Science, Research and Technology, the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. I thank the gentleman for yielding.

Mr. Chairman, incorporated into the provisions of H.R. 2444, is a transfer of certain National Science Foundation (NSF) programs to the newly proposed Department of Education (DOE). I believe that such a transfer would greatly hinder the quality of science education in this country and I therefore oppose the transfer of these programs to DOE.

As a member of the Subcommittee on Science, Research and Technology, which has jurisdiction over NSF programs, I have seen major advancements being made in the promotion and strengthening of science education programs in recent years. However, I believe a transfer of NSF programs to DOE would greatly impede much of this recent progress.

While this transfer is not essential to DOE, the retention of science education is essential to the execution of NSF as it functions to support and strengthen scientific knowledge. Currently, science education occupies 9 percent of the NSF budget and if transferred to DOE it would occupy less than 1 percent of their budget. It is imperative that science education be handled effectively by an agency which considers it to be a major responsibility. I fear that some

(On request of Mr. OBEY and by unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I simply want to say, without taking much time, that I agree with the gentleman. I think that this is perhaps substantively the most important amendment that has been offered to this bill this week.

Science is a very specialized field. It is not a generalize field. We cannot deal with it in a generalized way.

It would be terribly damaging and disruptive to the scientific programs in this country if we did not adopt the gentleman's amendment.

Mr. HARKIN. I thank the gentleman for his remarks.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. As a trustee of an institute of technology, I would like to associate myself with the gentleman's remarks and urge the adoption of his amendment.

Mr. HARKIN. I thank the gentlewoman.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the programs included in the Department of Education are the result of the compromise worked out between the administration and the chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA), who is also a distinguished member of the Committee on Government Operations. He insisted that the transfers be limited and sharply defined and that they not include any of the basic science programs in the National Science Foundation, and that is what we have done in this legislation.

In the year or so that this legislation has been under consideration in our committee, it has been very interesting to me to see so many Members and outside witnesses come in and say:

> Establish a Department of Education, but just do not put my favorite program in it.

The fact is that we are trying to do something that I think every Member really supports. I think we have all said good things about it back in our districts, and that is to reorganize the Government in order to make it more efficient, more effective, less costly. We are all for it. We have given a lot of thought in our committee, and so have a lot of other people, about what should be included in this Department to meet that goal. I hope the Members will agree that the amendment should be defeated.

Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. PEASE asked and was given permission to revise and extend his remarks.)

Mr. PEASE. Mr. Chairman, I rise in the struggle between competing departmental goals.

I am a cosponsor of the bill to establish a Department of Education. However, I think that it is essential that we not include programs in its jurisdiction merely for the sake of convenience or in an attempt to establish an all-inclusive department. Let us, rather, seek to establish an administrative framework for the best education this Nation can provide. The concern, expertise, and perspective of the scientific community, which is readily available in the NSF, is essential to the continued development of a strong forward-looking science education program.

I urge your support of the amendment before us.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Iowa (Mr. HARKIN).

Mr. Chairman, I do not support the formation of this new Department. But if this Department were to be formed, perhaps its greatest single error would have been to dismember the science education function of our Federal Government.

Many years before I came to this House I worked with the Office of Education, and I worked with the National Science Foundation. They are bureaucracies both. But I can tell you, to get to someone in the National Science Foundation, to be able to see a name on an office, to

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, in response to the distinguished chairman's remarks, I would again just point out all past science advisers to the President of the United States opposed the transfer except the present occupant of that position.

Mr. RITTER. How many past science advisers opposed this?

Mr. HARKIN. The advisers of Mr. Kennedy, Mr. Johnson, Mr. Nixon, and Mr. Ford.

Mr. RITTER. Four previous President's science advisers have opposed this transfer, and those four who have opposed it have no connection to the new Department and can view this amendment objectively.

I might add that the President's science adviser, Dr. Frank Press, has been out campaigning for the Department of Education. That does not sound like an objective view of this Department.

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I would just like to sum up and say that transferring science education to the new Department is a bad management move. It is bad for science and technology and I ask for your support in supporting the amendment of the gentleman from Iowa against this very, very bad move.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I will just take a minute or two. I have formation dissemination, $1,300,000; minority institutions sciences improvement, $5 million; resource centers for science and engineering, $2.800 million; minority institution graduate fellowships and traineeships, $2 million; ethics and values in science and technology, $1,300 million; and science for citizens, $2,100 million, making a total of almost $28 million for terribly important programs in science that are now being administered effectively by the National Science Foundation.

As the gentleman from Iowa indicated, four previous science advisers to the President oppose this transfer. The only one who favors it is the present science adviser.

So, Mr. Chairman, from my long experience as a member of the Subcommittee on Appropriations that has funded the NSF over the years, from my limited experience as chairman of the subcommittee that funds the NSF, I think it is an unwise decision.

I do not say it would ruin science education. I do not say that at all. What I do say is that it will harm science education and we ought not to do that.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. WYDLER asked and was given permission to revise and extend his remarks.)

Mr. WYDLER. Mr. Chairman, I wonder if the gentleman from Iowa would tell me whether he supports this bill or not?

Mr. HARKIN. I think so.

Mr. WYDLER. The gentleman thinks so? Indians come in here, and they say they want out. Members know how many other groups have been taken out of this bill from the beginning, first by the administration then by committee. One after another said, "If you want our support, we want out."

They tell Members of Congress to vote for the bill because it is a great Department—"As long as we are not part of it."

Do the Members get the message? This is all a put-on. Let one or another group get out, and that group becomes a supporter of this legislation and puts its name on the list of supporters. That is what they are doing to us, and they have done it time and again. Let us think of what they are trying to do to us with this bill.

I find very little support for this legislation outside of a number of people down at the White House and some of the Members of this body who have said that they made commitments long ago to support this idea because somebody came to see them early and they do not want to go back on their commitments.

Think however what a difference exists now that it is apparent what we have done to this bill to change it from the way it was originally proposed. Measure today's bill against the commitment you have made to support it some time ago. The message is simple, "We do not want any part of that so-called great new Department of Education."

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. WYDLER. I yield to the gentleman from Ohio.

That is all I am asking the gentleman to do, and I hope he will see it and arrive at the same conclusion that I have, that we just do not need it.

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Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. McCORMACK asked and was given permission to revise and extend his remarks.)

Mr. McCORMACK. Mr. Chairman, no matter how we look upon the point made by the gentleman from New York just now, it is important also to consider this amendment purely on its merits. I support the Harkin amendment, and I associate myself with the remarks of the several Members who have spoken for it.

What is at stake here is the quality of science education for the students of this country. The bill as drawn would remove the National Science Foundation science education program, which has been extraordinarily successful, from the National Science Foundation. I oppose this separation, which would be extremely damaging to our scientific education program.

I differ with the gentleman from Florida. He has said that social programs would be removed from the NSF by the bill. This is not the case. The bill would remove the precollege-level science education program for teachers for our elementary and secondary students. This is not a social activity, and it is important to the quality of the education of this country's children. The Committee on Science and Technology, which the gen-support of Mr. Harkin's amendment to retain jurisdiction over all science education programs in the National Science Foundation.

There are few Members of this House who would not agree that the scientific excellence of this country is one of our most valuable resources. The quality of this resource—based in industrial labs, Government resource centers, and universities—depends on the strength of the scientific education we offer from the elementary levels through the postdoctoral programs. More than any other discipline, the fields of mathematics and science demand that each new concept be built on a mastery of the concepts learned at the previous level. Any weak link contributes to a weakening of the program as a whole.

I firmly believe that the National Science Foundation, with its long-range perspective on the science needs of the Nation, is in a better position to promote quality science education at every level of the sequence and to emphasize the importance of each step to the larger goal of a healthy scientific community. Education has been a significant part of the Foundation's mandate and now comprises about 8 percent of the Foundation's annual authorization. However, one cannot say the same thing about the role of science in the proposed Department of Education. The entire science budget would comprise only one-half of 1 percent of their budget. Inevitably, the small but critical support programs which serve to strengthen each link in the educational chain (some of them only $2 or $3 million programs) will be lost in get an appointment to be able to get a result, to be able to get a program through quickly, to be able to see goals accomplished, these are features which characterize the National Science Foundation. The Office of Education, however—and I consider this department just one massive, enormous Office of Education—had just the opposite features. I would like to ask the chairman of the committee, the gentleman from Texas (Mr. Brooks) what science institutions, what organizations dealing in science and technology have come out in favor of transferring this major share of the National Science Foundation education program into the new Department of Education.

Mr. BROOKS. If the gentleman will yield, the President's Office of Science and Technology came out for it, the policy committee which is made up of professors, also support it.

Mr. RITTER. I would submit, Mr. Chairman, that the Office of Science and Technology policy reflects the administration's policy and that said policy is to formulate the new Department of Education. I do not think we have to read the list which I have before me containing many organizations related to science and technology that come from the community, not from the White House. Every single major science and technology organization—educational, professional, and industrial—is opposed to the transfer of these NSF programs.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Iowa.

been listening to the debate and one would believe from listening to this somewhere we are going to lose all our Nobel laureates; that in some way all postdoctoral, scientific programs will in some way be harmed. But, Mr. Chairman, what I am about to say will not require a thorough knowledge of the mathematical formula of the exponential extension of outer space.

If you read the language of the bill, it says:

> There will be transferred to the Department of Education those programs which are directed to (1) precollege level, science and education.

In other words, we are talking about—at least it was when I was in high school— basic chemistry and biology and things of that nature. We are talking about precollege. We are not talking about doctoral or postdoctoral programs.

> (2) Science education designed especially for minority and minority groups.

Where is there a better chance of getting a mix on that kind of operation than in precollege level programs than in a Department of Education which will have the full panoply of all educational programs.

> (3) Educational activities intended to provide science information for specific citizens and public interest groups.

And then further, that whatever is done will have to be done in cooperation with the director of the National Science Foundation, so if they do want to have something to say about curricula or particular programs or particular scientific endeavors at that level, which is precollege, they are still going to have the opportunity to do it.

Then the bill goes on further and says:

> Nothing is intended in any way to de-limit the power or authority of the National Science Director to initiate whatver programs or conduct whatever programs he thinks are in the best interests of the scientific community and at anything above the precollege level program.

I just think that it is a very limited transfer, Mr. Chairman, in terms of authority, and I think it fits in totally with the concept of the Department of Education. We see it in our school levels now, and I cannot see where there would be any difference.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. FUQUA asked and was given permission to revise and extend his remarks.)

Mr. FUQUA. Mr. Chairman, I rise in opposition to the amendment. I have the greatest respect for my friend from Iowa, the author of the amendment and a very valued member of the committee that I have the honor to chair, and the other members who have supported the amendment.

I would briefly like to explain what the transfer in the bill actually does.

Last year, when the bill was sent up to the House, there was a provision that transferred all of the science education from the National Science Foundation and makes that transfer.

The Members are all adults. I am sure we can make up our minds. But, as for me, I plan to vote against the amendment.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MARTIN asked and was given permission to revise and extend his remarks.)

Mr. MARTIN. Mr. Chairman, I rise in support of the amendment of the gentleman from Iowa (Mr. HARKIN), to remove science education in this bill from the Department of Education and return it to the National Science Foundation where it now resides and where it properly belongs.

The issue before us right now is the quality of science education in this country. That means whether it is going to be directed and controlled by educationist pedagogy or by scientists.

The Members or at least some of the Members will know that before I came to Congress, in real life, I was a mild mannered college chemistry professor until that day when, as one of my students said, trying to get even after a typically impossible exam, that I had had my head turned by lust for power in my heart.

Mr. Chairman, we also recall the days just after Sputnik when we agonized as a Nation that our science education and our science training was faltering and was inadequate. We found that that was produced that kind of renewed vigor in our science at the high school level especially; and for that reason, I support the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding, and I thank him for his support. I know the gentleman's past support for science, for science education, and the gentleman correctly referred to the Sputnik era.

One of the things we found out was that the research being done, for example, at the national level was not getting out into the field in a rapid manner. So we set up the science education program to do just that, to get the basic knowledge, the new discoveries in mathematics the new discoveries in physics and chemistry, to get it from the researchers out to the elementary and secondary school teachers so they would have that information right away so they could begin teaching it.

Mr. MARTIN. To further elaborate on the point the gentleman is making, the reason new developments were not getting out is because those teachers were not trained in science themselves, so it did not mean anything to them.

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Mr. HARKIN. That is absolutely right. I am afraid if this transfer takes place, even if this partial transfer we are talking about takes place there will be this

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to the Department of Education.

I opposed that amendment. I opposed it for the very reasons that have been expressed here today, the breaking up of science, the breaking up of a very valued program, and probably one of the best administered departments of this Government, the National Science Foundation.

Here, we do not get into basic science. It is that part that is related to social issues or dissemination of science information. That part—and it was a compromise—that I was not totally pleased with, but in the interest of trying to reach an agreement, I agreed with those programs that did not fall within the scientific education programs.

The teaching of ethics and values, science information for citizens and public interest groups, precollege level science education, programs that were specifically designed for minorities and minority groups, these programs had certain social implications that could be logically transferred within the framework of the Department of Education. That was the reason that this compromise was worked out.

I might point out that I am not aware of any of the science advisers or former science advisers who have taken a position on this amendment.

The position that they took was one, and logically so, on the transfer of all of the science education programs to the Department of Education.

This does not do that. This only takes about one-fourth of those programs within science education within the Na- especially true at the high schools and undergraduate levels in this country.

We found that it was waterlogged with too many teachers whose principal qualifications were that they had taken all of the required teachers courses but little or no science. They had not taken physics, and were teaching physics. They had not taken chemistry, and were teaching chemistry.

The result was we were losing the interest of bright young minds for science careers. I do not want to see us returned to that kind of program that was producing that kind of result. I do not even want us returned, as was suggested a moment ago, to providing that kind of third-rate science courses for minorities.

You see, at that time we decided we would set up a structure for reorganizing our science education, high school and college and postgraduate levels toward an emphasis on science, not under teachers' colleges, but scientists, who at that time with very hard work and innovation redesigned high school physics and chemistry courses, renewed an emphasis on subject matter rather than on how to teach. As a result of that, we benefited. I can tell you from experience that when high school physics and chemistry courses were overhauled by scientists, the achievement of high school students in those fields improved markedly. Suddenly our freshmen knew and understood basic principles of chemistry and physics whereas just a few years before our freshmen were science illiterates. The improvement was dramatic.

I would like to see us keep it that way, keep the program the way that it has tremendous lag time and difficulty in getting this information from the scientists and researchers down to the teachers at the elementary and secondary school level. I thank the gentleman for his comment.

Mr. MARTIN. I commend the gentleman for his leadership on this.

I yield back the balance of my time.

Mr. BOLAND. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, of all of the amendments that have been offered to this bill over the past few days I would think that this is the one amendment that the gentleman from Texas would accept. Both Jack Brooks and I came to this body in the 83d Congress. His mentor and my mentor was a giant in the Congress from Texas.

Mr. BROOKS. Would the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman.

Mr. BROOKS. In 1953, the 83d Congress. God knows I am not that old.

Mr. BOLAND. The 83d Congress. One of the giants in the Congress at that time and before we ever came was a distinguished congressman from Texas, Albert Thomas. Under his direction and leadership in the Congress the National Science Foundation flourished. He was here at the creation of the National Science Foundation.

Dr. Norman Hackerman—one of the most distinguished educators in the Nation, the president of Rice University, and the chairman of the National

Science Board—when he appeared before the HUD-Independent Agencies Appropriations Subcommittee, which I have the honor to chair, expressed opposition to the transfer of any of the functions, any of the activities, as I understand it, from the National Science Foundation to the new Department of Education. He also quoted from a statement by the National Science Board as follows:

> The argument * * * has been advanced that the science education component of NSF would form a natural part of the proposed Department of Education, because of a common concern with education issues. The National Science Board concludes that this would not be in the best interests of Science or the Nation, because activities in scientific research and scientific education are inextricably linked.

I know my distinguished friend from Florida, Mr. FUQUA, mentioned the fact that there are only a few programs being transferred from NSF to the DOE. But they are important programs. The total budget for the National Science Foundation in science education for fiscal year 1980 is $84.7 million. The programs that are being transferred by this bill out of NSF and into the DOE amount to $27.8 million.

The programs proposed for transfer are: Faculty improvement (pre-college teacher development), $9 million; student science training, $2,300 million; minorities, women, and the physically handicapped in science, $2 million; in-

Mr. HARKIN. I never commit myself on a bill, but I will see what the finished product is and make my decision then.

Mr. WYDLER. I have a great difficulty, and at the same time great interest in the amendment the gentleman has offered, but I find it raises a point that is of more interest to me and I think should be of interest to every member of this committee and of this House who is going to vote on the final passage of this bill. That is what I would like to talk about.

I think this amendment is good, although I am not sure whether it would or another. The important thing to me make a great deal of difference one way about this amendment is that it does what many amendments have been doing since we started the consideration of this legislation; that is, trying to get one group or another out of the new Department.

Now, to me that is a message. Does this not tell you something? These people, many of whom support the bill, and this gentleman from Iowa, who says he is not sure but is likely to support it, still want to get this particular set of programs out from this great new Department. This Department, we are told, is absolutely necessary; the Department we have got to have, the Department that is going to unify education programs and run everything better. In short this Department will do a better job for education in this country.

Yet what happens? The nurses come in here, and they say they want out. The

Mr. ASHBROOK. My colleague from New York makes an excellent point. It is easily understood by all of us, but I am not sure he understands that famous old American custom, the law of the prairie that says, "Anything caught in your trap is yours."

The trap is just about ready to come down, and anything they get in it they will keep. Nobody wants to get in the trap.

Mr. WYDLER. I thank the gentleman.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I think each and every amendment that comes on this bill ought to be debated and voted on on its merits.

Mr. WYDLER. I agree.

Mr. HARKIN. That is all I am asking, and whether the gentleman is for the Department of Education or against it, I am not making that case. I am only making a case that science education ought not to be in this bill. I think that amendment ought to be voted on on its merits.

Mr. WYDLER. I understand the gentleman's position since he has just indicated that he is not really sure whether he is going to vote for this bill or not, and since he really does not want this particular aspect of education in this great new Department, maybe that would make him question what the need is for this new Department of Education.

tleman chairs, voted to not allow any transfer of any part of the National Science Foundation education program to the Department of Education. That committee vote indicated its support for keeping the NSF program together. This program is working extremely well today. I know of no justification for removing it from the National Science Foundation. I know of no reason to assume that any part of it, let alone the whole program, should be transferred to a new Department. What justification could there possibly be for taking one of the most extraordinarily successful science training programs away from the scientists, which is what the bill would do?

The amendment, if it is adopted—and I hope it is adopted—would not interfere with existing programs in education which would be transferred from HEW to a new Department of Education. It would simply maintain the status quo. The National Science Foundation would go on as it is, and what programs are now under HEW would go to the new Department of Education.

The House has just accepted the Waxman amendment with respect to the nursing student loan program. One of the points made in that debate by the gentleman from West Virginia (Mr. STAGGERS) was that we do not want nonprofessionals teaching nurses; that we wanted professionals teaching nurses. This same philosophy applies in this case.

I, too, have had the experience of teaching college chemistry and college mathematics, and I have worked with school teachers and teach them about energy. The curricula consists of: Process approach to elementary science teaching; nuclear energy; field trip to Duane Arnold Energy Center; nuclear energy and field trip to Iowa State University nuclear reactor; solar energy—field trip to Iowa State University Solar Energy Research Center; field trip—Iowa coal research project; energy from fossil fuels; energy storage and transportation; energy use and conservation; energy in the home and school.

Nothing could be further from social programs. These are scientific programs being taught to elementary school teachers so they can go back and teach the elementary school kids all there is about energy and the various aspects of energy education and science in this country.

Mr. McCORMACK. I thank the gentleman. He has given us a single example. There are more, and many are even more important, including the teaching of physics mathematics, chemistry, and many other subjects of importance to our national strength.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I like many others had not intended to speak on this amendment, but I think that this perhaps could be the most important amendment that has been offered on this bill for the simple reason that it points out the futility this country want this new, added expense.

Mr. MARTIN. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from North Carolina.

Mr. MARTIN. I thank the gentleman for yielding.

I agree with much of what the gentleman says. If we want to clarify the purpose of this amendment, it is not to take science education out of the public schools—not by any means. The purpose of the amendment is to take control of science education out from under the Department of Education which the gentleman has characterized so incisively.

Mr. BADHAM. I understand that is the expressed intent, and I think the gentleman is clarifying that point. But if we take all of those finer aspects of the higher essence of education out of the Department of Education, there would not be anything left for the Department of Education to do. This amendment is pointing out the fact that this bill in its entirety is useless.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 39, noes 38.

RECORDED VOTE

Mr. HORTON. Mr. Chairman, I de-many secondary teachers, teaching them in subject areas in which they are teaching students. Mr. Chairman, that one can easily detect the desperate need to have science teachers qualified in the subject which they teach. This is best brought about by having scientists assist in teaching the teachers, and establishing this close relationship between science research and development and education. Accepting the Harkin amendment will maintain that strong relationship which we need, and I strongly endorse the Harkin amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HARKIN, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Further on the topic of this being just social programs, the largest single program in scientific education, in precollege level scientific education, is being transferred. To support what the gentleman from Washington, (Mr. McCORMACK) is saying, and to show this is not a social program, here is a brochure I have from Iowa State University. It is called Energy Education for Elementary School Teachers. This is one of the programs funded by the National Science Foundation. It is a year-long program where they bring in elementary of the exercise in which we are engaged today. To imply that education is a program that exists in our country and needs Federal direction, but only as it involves busing, abortion, sex education, minorities, and the like—but cannot and must not exist for science or for medicine, or for Indians and for all of the educational goals of this country, is ludicrous. I guess from a mechanical standpoint those who are opposed to this ill-conceived legislation in the first place should vote for the Harkin amendment, because that would point out the futility of having this kind of a Department of Education that embodies only that portion of education that does not have a strong lobby, such as those involving science or medicine education. On the other hand, from the educational standpoint, if we are trying to do legislatively and philosophically that which has always been impossible, and that is to amend a bad bill to make it a good bill, then we should vote against the amendment and keep the legislation whole; that is, to preserve a bill that would encompass all education. But in the final analysis of this particular amendment we are saying what the gentleman from New York said, that it is OK to have your new department. It is OK to build a new bureaucracy. It is OK to spend more and more billions of dollars, but do not put my program, that is, science, medicine, nursing, et cetera in it. So if we are going to be honest with ourselves and honest with the people of this country, we should defeat this and get on with the essence of the bill, and that is: Do we want a new, expanded bureaucracy or not, and I do not think this Congress or the majority of the people of mand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 240, not voting 29, as follows:

[Roll No. 234]

AYES—165

Addabbo
Ambro
Anderson, Calif.
Anderson, Ill.
Anthony
Applegate
Archer
Atkinson
Bafalis
Bailey
Barnes
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Boland
Bonker
Broomfield
Brown, Ohio
Butler
Byron
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Cleveland
Clinger
Collins, Tex.
Conte
Cotter
Courter
Danielson
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Downey
Duncan, Oreg.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Fazio
Fenwick
Ferraro
Fithian
Flippo
Fountain
Garcia
Giaimo
Gilman
Gingrich
Glickman
Goldwater
Gradison
Gramm
Green
Grisham
Guyer
Hamilton
Hance
Harkin
Heckler
Heftel
Hinson
Holland
Hollenbeck
Hyde
Jeffries
Jones, Okla.
Kastenmeier
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Lee
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Martin
Mica
Miller, Ohio
Minish
Mitchell, Md.
Montgomery
Moorhead, Calif.
Natcher
Nichols
Nolan
Nowak
Obey
Ottinger
Patten
Pease
Petri
Preyer
Pursell
Railsback
Rangel
Richmond
Rinaldo
Ritter
Roberts
Roe
Rosenthal
Roth
Rudd

Runnels
Sawyer
Scheuer
Shannon
Shelby
Shumway
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Solomon
Stanton
Stenholm
Stratton
Stump
Thomas
Van Deerlin
Walgren
Wampler
Watkins
Waxman
Weiss
White
Whittaker
Whitten
Wilson, C. H.
Wirth
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki
Zeferetti

NOES—240

Abdnor
Akaka
Albosta
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
AuCoin
Badham
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Blanchard
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Campbell
Frost
Fuqua
Gaydos
Gephardt
Ginn
Gonzalez
Goodling
Gore
Grassley
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harris
Harsha
Hawkins
Hefner
Hightower
Hillis
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nelson
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Perkins
Price
Pritchard
Quayle
Quillen
Rahall
Ratchford
Regula
Reuss
Rhodes
Robinson
Rodino
Rose
Rostenkowski
Rousselot
Roybal
Sabo
Santini
Satterfield
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shuster
Simon

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs for, with Mr. Johnson of California against.

Messrs. ANTHONY, MADIGAN, and COTTER changed their vote from "no" to "aye."

Mr. MOLLOHAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. DICKINSON:

Strike out all from line 22 of page 72 to line 21 of page 73, inclusive.

On page 73, in line 23, strike out "304" and insert in its place "303".

On page 74, in line 23, strike out "305" and insert in its place "304".

On page 75—

In line 9, strike out "306" and insert in its place "305"; and

In line 15, strike out "307" and insert in its place "306".

On page 76, in line 16, strike out "308" and insert in its place "307".

On page 79, strike out lines 15 through 25, inclusive.

On page 93—

In line 18, after the semicolon, insert the word "and";

In line 21, strike out "; and" and insert in its place a period; and strike out lines 22 and 23.

Strike out all from line 10 of page 102 to line 13 of page 103, inclusive.

On page 103—

☐ 2040

Well, they are different, and their situation is different for a number of reasons. I have been to the schools and seen them in operation. I have seen them in Spain, in Germany, in Japan, and, Mr. Chairman, the logistics involved are tremendous. The problems involved are tremendous. The curricula involved is tremendous becaues it has to be padded to fit their needs which are peculiar to the military because they are so mobile and so transient in nature.

The overseas schools, which are supervised by the Department of Defense, are like no other in their operation. Because the normal tour of duty for personnel overseas is 3 years, the overseas schools have to constantly deal with a stream of new students in the schools. As a result, we can see the need for curricula which provide for continuity from one theater to another, which is necessary.

Unfortunately, I am afraid, if the schools were combined with the Department of Education, the overseas military schools, which obviously need special attention, will either be pushed to the background or will be required to conform to standards applied to schools in the United States which really are not applicable.

It is not just my feeling that this is not a good idea. I have here in my hand a copy of a memorandum to Mr. James McIntyre, Director of OMB, which was signed by Mr. Duncan, our Deputy Secretary of Defense. If I may quote, he said in part as follows:

Carney
Carr
Clausen
Coelho
Coleman
Collins, Ill.
Conable
Corcoran
Corman
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Dellums
Dicks
Dixon
Dodd
Dougherty
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Luken
Lungren
McCloskey
McDonald
McEwen
McKay
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Michel
Mikva
Miller, Calif.
Mineta
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Skelton
Snowe
Snyder
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vanik
Vento
Volkmer
Walker
Weaver
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Young, Alaska
Young, Mo.

NOT VOTING—29

Alexander
Boggs
Bolling
Clay
Conyers
Davis, S.C.
Derrick
Diggs
Early
English
Evans, Ga.
Findley
Flood
Forsythe
Gibbons
Hagedorn
Ireland
Johnson, Calif.
Mavroules
Mikulski
O'Brien
Pepper
Peyser
Pickle
Royer
Russo
Treen
Vander Jagt
Wilson, Bob

In line 14, strike out "(l)" and insert in its place "(k)"; and

in line 20, strike out "(m)" and insert in its place "(l)".

On page 52, in the table of contents, strike out "Sec. 303. Transfers from the Department of Defense." and renumber sections 304 through 308 as sections 303 through 307, respectively.

Mr. DICKINSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. DICKINSON. Mr. Chairman, this amendment is in essence the same amendment that was offered by my distinguished colleague, the gentleman from Illinois (Mr. ERLENBORN); but rather than to confuse anyone, let me say it has to do with the employees of the Department of Defense in our overseas schools.

Now, what the amendment offered by our colleague, the gentleman from Illinois, would have done was to remove the department head itself. My amendment simply says that the employees of the Department of Defense that are now engaged in educating our children overseas, the children of dependents and in this country in some respects, will not be removed from the Department of Defense.

Now, why are they being treated differently?

> I have reviewed the OMB optional paper dealing with a new Department of Education.—

This is dated 1978.

To continue, Mr. Chairman, he said:

> I have several comments on portions of the paper related to the DOD Overseas Dependents Schools.

He said further:

> I agree with the recommendation in the OMB paper that the DOD Overseas Dependents Schools not be transferred to the proposed Department of Education.

Mr. Chairman, let me say to the Members of the House that we have to understand this letter is directed to Mr. McIntyre, the Director of OMB, and it is from the Deputy Director of Defense.

We have a very difficult time getting a statement out of the Department of Defense that is contrary to the official position.

This is what they said last year:

> The best way to guarantee quality education to the dependents of our service people overseas is to continue operation of schools by the Department of Defense. Transferring the schools to the Department of Education would involve a substantial risk of degrading their quality and would provide an extremely strong reaction from the Military Services.

He also goes on and says:

> I disagree with the paper's recommendation dealing with the linkage between the Department of Defense and the Department of Education. The latter should not have oversight authority. Rather the relationship between the two agencies should be similar to that which exists between the new Department of Education and State and local school systems.

Mr. Chairman, this makes sense. The Department of Defense has been in the business of educating children overseas for over 25 years. In 1976 there was a complete overhaul of the program, and since that time I think it has been universally agreed within the Department of Defense that they have been upgraded and their standard of education has increased. They are all accredited, and their needs are in fact unique.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Mr. Chairman, to continue reading from the letter from the Deputy Secretary of Defense to the OMB, he went on to say:

> I object to the paper's assessment of school management.

This is a paper from OMB written on the subject.

To continue, he said:

> It is badly out of date.

I mention this because of some of the arguments that have been made prior to this in the past and that might surface.

To continue, he said:

> The problems it outlines were highlighted in a study for Secretary Schlesinger in 1975. As a result the system was reorganized in 1976, with management centralized in the Office of the Secretary of Defense. Hard work within the DOD has led to dramatic management improvements since then.

ing goes down home, "If it ain't broke, don't fix it."

It is going good. We are about to take a well coordinated, ongoing, successful operation and transfer it over into limbo, where perhaps eventually they can work out the kinks and the problems. But there is no need for it. Nobody wants it except the head of the Department of Defense and the White House.

When I called over to the Department of Defense to get some background information to make this presentation, I asked who I could talk to get the background. I was told, "Well, there is really nobody over here who will speak against it because the official line is this way, but there is nobody over here for it either."

So it makes it a little difficult to get the statistical background, but we were able to come up with some, and I think the most authoritative we could find would be from the Deputy Secretary of Defense.

So my point, Mr. Chairman, is that the hour is late. I think there is a natural resistance on the part of some Members because they think if they could not get their program out, nobody else's program should come out. But I think in the interest of the dependents of our uniformed personnel, this is necessary. It is good, it will save money, and it will avoid confusion.

I earnestly implore the Members of the House to give this serious consideration on its merits. Let us not tear up a good thing that we have been years in building overseas dependent schools into the Department of Education.

□ 2050

He told our committee:

> We believe that our children deserve a better education than that which they are getting, that this education must be relevant in terms of preparation for adult life, and that it must be compatible with the general educational processes in the United States.

I used this letter last night when this same effort was made to take these overseas students and put them back in the Defense Department where nobody wants them. We beat it then by 230 to 178 votes. I hope we can do better tonight.

Commander Austin further said:

> The new Department of Education is certainly no panacea to immediately cure all of our ills. But we believe that the prognosis for survival there is much better than under the Department of Defense system.

We had letters from the National PTA endorsing this. We had a letter dated May 1979, from Dr. Ed Schulze, president, European PTSA, endorsing it. It was passed unanimously in their 1978 convention. It will be in effect until the 1980 convention.

We received a letter from the Secretary of Defense, not dated in 1978 or 1975, but dated June 11, 1979. Secretary of Defense Harold Brown said:

> I am writing to ask you to oppose any amendment to delete the Overseas Dependents' Schools from this legislation.

He said:

> We believe that the Overseas Dependents'

The paper—meaning the OMB paper—is misleading in its assessment of quality of the schools. The President should be told that educational quality is measured annually by the North Central Association of Colleges and Schools (NCA).

This is the same association that accredits colleges and schools in 19 States. All 62 DOD high schools are accredited. Arrangements have been made with the NCA to accredit all elementary schools.

Mr. Chairman, I could go on and cite others. I think there is a lot of background here, and if any of the Members care to hear it, I will be glad to go further into it.

But the point is this: I have visited the schools, I have talked to the teachers, and in many instances I have received a very large number of letters on this subject.

Mr. Chairman, I have not received one letter—not one letter—from anyone within the educational system of the Department of Defense who is in favor of the proposed amalgamation, but I have received a raft of letters in opposition to it.

As I said before, the situation is unique. The question of logistics is unique, the moving and transferring of teachers to and from foreign countries.

And what about the housing when they get there, Mr. Chairman? What about the transfer of goods? Is the Department of Education going to be able to transfer household furnishings and goods as efficiently as does the Department of Defense?

The entire spectrum that has been set up is in being. It works, and it has been working for a number of years. There is nothing wrong with it, and as the saying and bringing about and fold it under another administration and another layer of bureaucracy where it cannot possibly receive the individualized personal attention that is needed and where it would have to deal at arm's length with Washington from overseas bases.

Mr. Chairman, I ask the Members to vote for this amendment and at least let our service personnel get out from under. They feel strongly about it, believe or or not.

We are very concerned now about the All-Volunteer Army and whether we should reinstate the draft. The military has seen an erosion of benefits to service personnel, and they view this as just another threat. If we want to give some encouragement to those in uniform, let us support this amendment and show them we are interested in their welfare and we want to do the best we can for them.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I supported the transfer of the DOD overseas schools last year and again this year. I continue to do so for one basic reason. The Department of Defense's primary mission is in defense and military preparedness, not education. Transferring the schools to an agency oriented to education will benefit overseas dependent students and give them an opportunity to have a first-class education.

During the hearings we heard testimony from Navy Commander Michael Austin. He spoke on behalf of 26,000 members of the European Congress of Parents, Teachers and Students. He wholeheartedly endorsed the transfer of School program is more appropriately located in the Department of Education than in the Department of Defense, for several reasons.

It will improve prospects for enhancing the quality of education services to locate the schools in a Department of Education that includes a wide variety of education program resources, information and professional expertise.

The schools would be better able to tap resources from other Federal education programs. For example, a Department of Education could help guide and fund the expansion of education programs now offered in the Overseas Dependents' Schools. Examples are vocational education, bilingual education, special services for handicapped and gifted children, and libraries.

The administration bill recognizes the uniqueness and importance of the Overseas Schools. The legislation creates an Office of Overseas Dependents' Schools reporting directly to the Secretary. The schools will be phased in over a three-year period. This will provide time for the Secretary of Education and the Secretary of Defense to ensure an orderly transition, including the development of logistical support arrangements.

I know that one of the major objections to the inclusion of the Overseas Dependents' Schools program in the Department of Education is the fear that this may lead to increased Federal control of education. I do not believe that this concern is warranted. The Federal Government (in the form of the Department of Defense) already operates these schools. The Administration's legislation includes specific language prohibiting any increase in Federal control of education.

No serious objections to the transer of the Overseas Dependents' Schools to the Department of Education have been raised by the Military Departments or by the military community—those who know best the needs of their children.

We believe that the Department of Education is the most appropriate Federal agency to administer these schools, and I ask your support for the inclusion of the Department of Defense Schools in H.R. 2444.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will not take the full amount of time, the full 5 minutes, because we have debated this amendment yesterday afternoon, at which time, as the chairman has pointed out, there was a vote, and the vote was 178 to 230 against the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

But I do think that I should read a letter that I received from one of the teachers. The gentleman from Alabama said he had received no letters from any teachers. I have received a letter from a Martha A. Negri, dated June 3, 1979, and I think it probably sums up what we could probably talk for several hours about on this amendment.

She says:

Hon. FRANK HORTON,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE HORTON: As an Elementary School teacher in the Dependent schools in Europe I am very concerned about the establishment of the Dept. of Education.

I feel the Dept. of Defense has enough to do with the defense of our country, they do not need to be tied to the education of dependents. The Dept of Defense does not understand many of the problems of edu-

of a grant-in-aid Department, a grant-in-aid bureaucracy elevated to a Cabinet-level office. To me, this shows how absolutely silly the proposition is to create this new Department.

Mr. Chairman, I would hope that this amendment carries.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GOLDWATER asked and was given permission to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Chairman, I rise in support of the Dickenson amendment. Under the Committee version of H.R. 2444, the education functions which have been administered through the Defense Department—and administered well—would be transferred to this new Federal monster, the Department of Education.

With 135,000 students attending the 267 overseas schools, we cannot afford to dismantle a $350 million operation which was originally placed under DOD for a very logical reason. These schools, which comprise a program comparable in size to the 11th largest school system in the country, are interwoven with the fabric of the military communities in which they have been established. I agree with the views of a number of my colleagues who, in the Committee Report, likened this provision of the Department of Education bill with a proposal to have the U.S. Department of Agriculture run the dining room in the Capitol.

The Defense Department has respon-

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 173, noes 225, not voting 36, as follows:

[Roll No. 235]

AYES—173

Abdnor
Alexander
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Bennett
Bethune
Bevill
Bingham
Boland
Bowen
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Chisholm
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Deckard
Derwinski
Devine
Dickinson
Dingell
Grisham
Guarini
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hinson
Holt
Hopkins
Hubbard
Hutto
Hyde
Ichord
Jeffries
Jenkins
Kelly
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McCormack
McDade
Myers, Ind.
Natcher
Nelson
Nichols
Obey
Pashayan
Paul
Price
Quayle
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Rosenthal
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stratton
Stump
Taylor
Thomas
Walgren

cators or education, which causes many problems.

The Dept. of Education would not only benefit education it would also reduce the HEW bureaucracy.

Please help us—teachers—by supporting the Dept. of Education.

Sincerely,

MARTHA A. NEGAL.

Mr. Chairman, I urge that the amendment be defeated.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ROSENTHAL asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Chairman, I rise in support of the amendment, and possibly for some reasons different than the author of the amendment. I am equally concerned with the conduct and the quality of the education of the youngsters in these overseas dependent school systems. I know that whichever way the amendment goes that that is one of our prime concerns.

The number of personnel proposed to be included in the new Department is 24,293. If the overseas schools stay in the proposed Department, they will provide 10,864, or very close to 40 percent, of the total personnel. You are, in fact, creating a Cabinet-level Department to run a school system. Think of that for just a moment. You are creating a Cabinet-level Department to run a local school system, albeit it is dispersed throughout the world.

Without the Defense Department overseas local school system this proposed Department is really seen for the fact of what it is, a skeletal operation sibility for this function because it is most sensitive to personnel procedures, transportation warehousing, supplies, maintenance of facilities, food services, and so on installations where a Department of Education would have not the slightest idea of how things should be managed consistent with policies of a particular branch of the military service. If a Department of Education extends its tenacles of bureaucratic signal-calling to these overseas schools, there will be a costly duplication of effort—something which I thought Congress, by this time, was not about to tolerate in government programs.

As it is, I foresee a Department of Education falling on its face trying to run the show at a school in my congressional district 3,000 miles away. How in the world are they going to do it in a small European village when the capability already exists in our Department of Defense?

Mr. Chairman, the interrelationship beween these overseas schools and the U.S. Department of Defense has worked well. I urge the committee to adopt the Dickinson amendment and keep management of these overseas schools where it belongs—under the control of the Pentagon.

☐ 2100

The CHAIRMAN. The question is on the amendments offered by the gentleman from Alabama (Mr. DICKINSON).

The question was taken, and the chairman announced that the noes appeared to have it.

Mr. DICKINSON. Mr. Chairman, I demand a recorded vote.

Donnelly
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Flippo
Fountain
Frenzel
Giaimo
Gingrich
Goldwater
Gradison
Green

McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha

Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Winn
Wydler
Wylie
Yates
Young, Fla.

NOES—225

Akaka
Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Blanchard
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan

Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Dicks
Dixon
Dodd
Dougherty
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Ertel
Evans, Ga.
Evans, Ind.

Fary
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Gudger
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Hillis

Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lederer
Leland
Levitas
Long, La.
Long, Md.
Lowry
Luken
Lundine
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mazzoli
Mikva
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Weaver
Weiss
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—36

Addabbo
Biaggi
Boggs
Bolling
Bonior
Clay
Findley
Flood
Ford, Mich.
Forsythe
Gibbons
Heftel
Mikulski
Mitchell, Md.
O'Brien
Pepper
Peyser
Royer

stead of BIA shall remain under the control of the tribal councils.

Let me just read section 1130 of Public Law 95-561. It says:

> It shall be the policy of the Bureau in carrying out the functions of the Bureau to facilitate Indian control of Indian affairs in all matters relating to education."

I hope that the committee will accept this amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I think this is a good amendment, and we will accept it on this side.

Mr. McCLOSKEY. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I think the amendment is in good order, in looking over it, and we accept it on this side.

Mr. McCLOSKEY. I thank the gentleman, and I yield back the balance of my time.

☐ 2120

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment, because I intend to offer another amendment deleting the transfer of BIA schools, so at this point I will oppose Mr. the same effect as his amendment. Neither the BIA nor the Federal Government needs this amendment. They can implement Indian control right now.

What the Indian tribes object to is the transfer of the BIA schools from the Department of the Interior to the proposed Department of Education. The amendment which I will propose will delete that provision which was added at the last minute and without true consideration by the committee. The Indian community is overwhelmingly opposed to the transfer, and they are opposed also to the language which the gentleman has the language which the gentleman has proposed.

While I am not happy with the history of the BIA, particularly in the area of education, this Congress passed last year title XI of Public Law 95-561, which has restructured the role of the BIA schools within the BIA. This was developed with great input from the Indian tribes and the various Indian organizations. That legislation should be given a chance to go into operation. It will improve the role of the BIA schools within the BIA structure.

Let me tell the Members why we should not separate the BIA schools from the rest of the BIA functions. The BIA is the agency entrusted with the fiduciary trust responsibility for the various interlocking services to the Indians and the Indian tribes. This is a very important point. At the local level, particularly on the reservations, education is inextric-

Conyers
Davis, S.C.
Derrick
Diggs
Duncan, Oreg.
Ferraro
Ireland
Johnson, Calif.
Kemp
Lehman
McKinney
Mavroules
Stockman
Symms
Treen
Vander Jagt
Wilson, Bob
Zeferetti

☐ 2110

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MCCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 76, line 12, strike the word "or", and on page 76, strike lines 13 and 14 and insert in lieu thereof the following:

"(2) Alter in any way the responsibility of the Secretary or the Department to work with Indian tribes, Indian institutions, and Indian organizations as is required of the Secretary of the Interior under title XI of the Education Amendments of 1978.

"(3) Alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts."

Mr. McCLOSKEY. Mr. Chairman, this is a simple amendment. Last year, the House passed Public Law 95-561, providing that Indian education would be under the control of Indian tribal councils. The purpose of this amendment, if this bill should be enacted, and if the Bureau of Indian Affairs schools should be transferred to the new Department of Education, is to provide that when the Department of Education takes over Indian schools it will obey that mandate Congress enacted last year, that control of schools funded by HEW in-

McCLOSKEY. The amendment offered by the gentleman from California really does not do anything. It is really a superfluous bit of language which tries to perfect that which is imperfect, but which is still objectionable to the Indian Community.

The Coalition of Indian Controlled School Boards has, in the last 5 minutes, indicated that they oppose the McCloskey amendment, and that they support my amendment, which I will be offering in a few minutes.

Mr. MCCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from California.

Mr. MCCLOSKEY. I thank the gentleman for yielding.

The reason that I offered the amendment was because I had a letter from the Acting Assistant Secretary for Indian Affairs, Forrest Gerard, and he pointed out this in the letter. He said:

> The BIA commends Congress for providing direction and giving a statement of confidence to the Bureau of Indian Affairs in passing P.L. 95-561, The Education Amendments of 1978 (Title XI). The law is unique because it mandates the rights of tribes to control Indian education. If now Congress suddenly mandates a reversal of past legislation, tribes will become uncertain of education direction because of continuous change and no implementation. There is an inherent policy of confidence of tribes in P.L. 95-561.

If the Secretary is correct, how can the tribes oppose putting the language of Public Law 95-561 into this act?

Mr. KILDEE. I would submit that a letter from the gentleman or myself telling the BIA to obey the law would have

ably intertwined with other services provided by the BIA.

The principal of a BIA school is not only an educator but, of necessity, he or she is also the postmaster, the expert on the other BIA programs, such as the social services and clinics, land management, the water wells, and the road management. Indeed, road management is a very essential responsibility of the principal at a school. There is a direct correlation between the attendance at BIA schools and the maintenance of what some would call "roads". But it is a very, very important correlation. There is distance out there, and there is a remoteness. The BIA principal, an employee of the BIA, can get the other BIA divisions to maintain the roads, repair the wells, fly in the supplies, et cetera, which bring the Indian students from a distance, long distances, to that school and make a school possible. He can do that, because he is part of the BIA system.

Remove him from the BIA system, and you break apart these interwoven services for Indians. For the provision in the bill does not transfer support services at all. Either they will have to be duplicated in the Department, or the new Department would have to rely on the BIA. It takes no great imagination to foresee how that arrangement would work.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KILDEE was allowed to proceed for 3 additional minutes.)

Mr. KILDEE. I spent some time on reservations and in BIA schools learning about the situations. I found that in a boarding school, the BIA principal really acts, in a sense, as a surrogate parent to those students living there. He has to have that immediate input to the other services within the BIA to really carry out his responsibilities. Without it, the safety of the children is jeopardized.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Where are these schools located? Where are these boarding schools located?

Mr. KILDEE. A number of them are located in New Mexico and Arizona. Some are in Alaska and others are scattered throughout the United States.

Mr. MARLENEE. They are located on the reservation?

Mr. KILDEE. Many of them are located on the reservation. Some are not on the reservation.

Mr. MARLENEE. What are these distances the gentleman is talking about in the interwoven services?

Mr. KILDEE. The distances are considerable. They are the distances from the child's isolated and often unreachable homes.

Mr. MARLENEE. Who pays for the schools?

Mr. KILDEE. The schools are paid for by the people of the United States.

Mr. MARLENEE. Why should they be different then?

Mr. KILDEE. The appropriation is inspecting them, living on reservations, I am convinced, absolutely convinced, that the best thing for Indian children is to defeat this amendment and adopt the amendment I will offer. I believe that from the depth of my heart. I would urge the Members to defeat this amendment and support my amendment which I will offer later.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words.

I think if there is one particular measure that we should eliminate from the separate Department of Education bill, it should be Indian education. For a number of years in this country, local and State educational agencies did not take into consideration the unique and specific needs of the Indian children. As a result of being able to have established within the Bureau of Indian Affairs the final recognition that all of their programs do take into account the different tribalisms, and their own culture I think it would be a very unjust and unfair thing at this particular juncture in America to remove the Bureau of Indian Affairs from overseeing and supervising the education of this particular segment of our people who have never been given fair and requisite treatment by the local educational agencies in this country.

☐ 2130

I think history is replete with this kind of information. Since we are in the process of putting in and taking out different segments for this particular Department, this is one area which I think in

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words. I speak in support of the amendment.

The amendment by the gentleman from California (Mr. McCloskey) is a simple amendment which maintains the existing responsibility of the American people to the Indians and our relationships are rather special relationships. This is agreed to by myself and agreed to by the gentleman from New York (Mr. Horton).

Another amendment that they are talking about that may come up later would remove the Indian education capability from the Department of Education and give it back to the Bureau of Indian Affairs. We will argue that when we get to it but right now this is rather noncontroversial and I would think we ought to be able to pass it without any difficulty.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kildee: Page 75, beginning on line 14, strike out all of section 307 through line 14 on page 76, and on page 76, line 16, redesignate section 308 as section 307.

Page 52, in the table of contents of the bill as amended, strike out:

Sec. 307. Transfers from the Department of the Interior.

Sec. 308. Effect of transfers.

given to the BIA. I will reclaim my time.

The reason why they are different is because the education services to the Indians cannot be separated from all the services needed to support them. That BIA principal has to be able to have direct input into the BIA to make sure that those other services are maintained. You cannot sever this symbiotic relationship.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. Just briefly I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

I wonder if the gentleman could outline what his procedural timetable or plan is? Is he planning to offer a substitute for the amendment?

Mr. KILDEE. I checked with the Parliamentarian, but I have chosen not to do that. I will offer my amendment after the defeat of this amendment.

Mr. WEISS. Will the gentleman yield further?

Mr. KILDEE. Yes.

Mr. WEISS. If the amendment is not defeated, what will the gentleman do?

Mr. KILDEE. I will still offer my amendment.

Mr. WEISS. And it would be in order?

Mr. KILDEE. It would be in order.

Mr. WEISS. I thank the gentleman.

Mr. KILDEE. The gentleman is very welcome.

In this entire debate, I have heard very little about children. It is rather shameful that we have not given more time to children when we discuss a Department of Education. Having spent time staying in Indian boarding schools, good conscience, we should continue to permit within the Bureau of Indian Affairs and not be placed in a separate Department of Education. I think many of the Indian organizations and groups have indicated quite clearly that this is what they would like to see happen with respect to Indian education.

Mr. GUDGER. Mr. Chairman, I move to strike the last word.

I would like to associate myself very firmly with the comments of the gentlewoman from New York. The gentlewoman's observations concerning the importance of the Bureau of Indian Affairs and the education of Indian children is certainly valid. I think, also, we need to take recognition of the fact that in recent years, particularly the 95th Congress, considerable legislation has been passed designed to improve the educational opportunities in the Indian schools under the administration of the BIA.

I would like to say within my own district I am well aware of the great progress that has been made in the last 20 years in the process of Indian education under the Bureau of Indian Affairs. I think it would be a very, very serious mistake to do anything which would disrupt this progress which has been realized at this time.

I think nothing short of the refusal to transfer the process of Indian education from the Bureau of Indian Affairs would be effective and, therefore, I think that the Kildee-Foley amendment is the only answer to this particular problem. Accordingly I speak against the amendment pending.

And insert in lieu thereof:

Sec. 307. Effect of transfers.

(Mr. KILDEE asked and was given permission to revise and extend his remarks.)

Mr. KILDEE. Mr. Chairman, I have said most of what I wish to say with regard to the McCloskey amendment.

I really believe that the gentleman from California (Mr. McCLOSKEY) is sincere but what he gives to the Indians is language. It merely is a kind of a pious thought. It does not give the Indians anything substantive because the transfer still takes place and it is the transfer that the Indian people oppose.

That is the real question before this House. Will we transfer the Bureau of Indian Affairs schools from the Bureau of Indian Affairs to the proposed Department of Education? Because of the interlocking nature of the services of the Bureau of Indian Affairs and the interlocking responsibilities of the principals of those schools, this would be harmful to the Indian community. I am convinced of this. I have observed the schools and I think it would be extremely disruptive. Transfer of Bureau education would not allow the one agency which is entrusted with the fiduciary responsibility to the Indian tribes to carry out their responsibilities as they should.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Arizona.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Michigan earlier and with the remarks he has just now made. Mr. Chairman, I rise in support of the amendment. While I am in strong support of the establishment of the new Department of Education, I simply do not feel that it is timely to transfer the educational functions of the Bureau of Indian Affairs to the new Department.

Indian tribes, whose children will be affected by the proposed transfer, stand in united opposition to the transfer, and they are unanimously supporting the Foley-Kildee amendment to delete BIA education from the new Department. I support the policy of the United States toward the Indian tribes which is one of self-determination for the tribes and local control of the education of Indian children. The bill as reported violates the principle of Indian self-determination by ignoring the expressed views of the local community.

An Indian tribe is a governing body and an Indian reservation is a community of people. The problems of Indian education cannot be separated from the total Federal effort attacking the multitude of problems on the reservations. This is not the time to further splinter the Federal effort in these communities so vulnerable to changes in Federal policy.

The Indian people have a real concern about the fate of the education of Indian children in the new Department of Education. They feel that their very

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from California.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Chairman, I oppose the transfer of the Indian education programs from the Bureau of Indian Affairs to the new Department.

A great many individual tribes and several Indian organizations have contacted us requesting our support for an amendment to delete the BIA education programs from the jurisdiction of the proposed Department of Education. I intend to support the amendment and I urge my colleagues to do likewise.

The thrust of the amendment is consistent with our longstanding goal of self-determination for all native Americans. By allowing the BIA to continue to address the unique educational needs of Indian people, we can better prepare the Indian community for an expanded role in our democracy.

By transferring the Indian education programs away from the BIA we would lose the expertise they have developed and the understanding they have of tribal government systems, beliefs, and customs.

The transfer would also fragment Indian programs and services between two different agencies. The likely consequence would be delay and confusion in Indian programs.

The Education and Labor Committee

Mr. KILDEE. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, before the Committee on Interior and Insular Affairs did away with its Subcomittee on Indian Affairs, I was the ranking member on that subcommittee. I am convinced that the gentleman's amendment is a good one which should be passed and I endorse it.

Mr. STEED. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it just happens I have no Indian reservations in my district but I represent 13 Indian tribes and I have two Indian boarding schools in my district that have been in existence for more than 100 years each.

If we make the mistake of taking this program from the Bureau of Indian Affairs we are going to do a disservice to the most needy of all the Indian children in this country.

Most of our Indian children in Oklahoma go to the public schools under the Johnson-O'Malley Act, but we have those those who, by reason of living so far into the hinterlands that it is impossible to get them to a school. The only way they can be given their educational opportunity is to have these boarding schools.

I have been in these schools many times. I am very familiar with these schools. I give you my word that the program is improving, it is doing the job, it serves a purpose that no public school on Earth can serve and if we want to be fair to these people and live unique needs in education and their concern for the retention of their culture will be lost in such a large department. They fear also that this kind of transfer will set a precedent which will result in a complete fragmentation of the Federal responsibility for Indian tribes and which may lead to the eventual termination of their existence as a people. I share their concern.

I am not unaware of criticism over the years of the quality of the educational program of the Bureau of Indian Affairs. The Indian tribes are equally aware of the failures of the Bureau in education; they have been the Bureau's most severe critics. Nonetheless, the answer is not to transfer the educational function from the Bureau of Indian Affairs, but rather to work with the Bureau to make it an effective, efficient agency in all of its functions, including education.

In the past, it has been too often the practice for the Federal Government to ignore the voice of the Indian people and to decide without their consent what is good for them. In this case, the Indian people—the Indian parents—have spoken with one voice. They do not wish the transfer. We should listen to and honor their decision.

I urge you, whatever your position may be on the creation of the Department of Education, to give effect to the expressed desires of the Indian people and to vote "yes" on the Foley-Kildee amendment to delete the provisions of H.R. 2444 which provide for the transfer of BIA education to the new Department.

has recently expanded the BIA's role in developing Indian education programs. The Education Act Amendments of 1978 were unique in that they mandated the rights of tribes to control Indian education. We have moved quickly in this direction by supplying the BIA with the necessary authority to assist them.

The bill as reported to the House would undo the work of the committee without properly considering the consequences. At a minimum, the transfer would leave our Indian communities uncertain of the direction Indian education would take.

To give my colleagues a better understanding of the progress being made in the BIA, I would like to point out the following key facts:

The BIA education program served 20.000 students in 1978, up from 2,660 in 1968.

The Johnson-O'Malley program served 163.000 students in 1978, up from 87,000 in 1972.

Approximately nine new schools per year have been tribally contracted since the 1975 passage of the Indian Self-Determination Act.

In 1978, the Bureau launched a new effort to identify the needs of handicapped Indian students and is implementing a program to provide services to those students in 1979.

I urge my colleagues to stand firm in their previous commitments to a comprehensive Indian education program and our goal of Indian self-determination by supporting the amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

up to these treaties, these sacred obligations we have with them, we must support this amendment.

Mr. HINSON. Mr. Chairman, I move to strike the requisite number of words.

(Mr. HINSON asked and was given permission to revise and extend his remarks.)

Mr. HINSON. Mr. Chairman, I rise on behalf of the Kildee-Foley amendment to H.R. 2444

There are a number of strong arguments for maintenance of control of Indian education by the Bureau of Indian Affairs, but the strongest, I think, is the support for the amendment which has been shown by native Americans themselves Very few tribal groups desire that their education programs be directed by a new Cabinet department.

The reasons are several. Indian education is highly specialized, requiring a knowledge of, and a sensitivity to, the cultures, languages, and environments of the various tribal groupings and subgroupings. The Bureau of Indian Affairs has developed this necessary expertise. In addition, the experience of the Bureau has made it thoroughly cognizant of special considerations which make Indian education even possible: Wells in New Mexico, transportation in inaccessible parts of Alaska, and many others. Entry by a Department of Education into these areas which have traditionally been administered by BIA would necessarily involve a needless duplication of facilities. The fact is, at least so far as Indian education is concerned, the Bureau, after a rather unfortunate beginning, has developed excellent and increasingly successful education program. By contrast the dead hand of HEW has been laid upon the head of public education throughout the Nation to the extent that we are annually graduating legions of illiterates and semi-literates from the public schools in every state, with the attendant social, economic, and cultural consequences. To subject American Indians to the tender mercies of HEW, at a time when they are just beginning to reemerge would add insult to injury, and could well be catastrophic for their continued development.

Our culture was violently thrust on American Indians and with it came the necessity that they become educated in its substance and processes. Their disadvantages are great. It seems irrespsonsible to tamper with a successful program in order to insure bureaucratic consolidation, especially when American Indians have suffered so greatly in the past from the Government's caprice. When we created the Bureau of Indian Affairs, we recognized the unique character of native Americans and the unique obligations we bear to them. To fragment these obligations and the programs we have established to carry them out would, in my view, be a great tragedy—for our own culture and for that of American Indians. I urge adoption of the Foley-Kildee amendment.

☐ 2140

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

(Mr. FOLEY asked and was given per-

however, it has been the theme of greater participation by the tribes in the affairs of Government with respect to their welfare and concerns. That theme has rum through every piece of legislation that has been brought to this floor in my memory in the last dozen years and more. Of all the issues of great sensitivity to the Indian people of this country, it is the education of their children.

We have adopted by almost unanimous voice vote, I believe by unanimous voice vote, a cardinal principle of this bill that the primary responsibility for education lies with the State and with the parents.

I ask you only to apply that principle in dealing with the question of Indian education. I ask you to recognize the interests of Indian parents, and to recognize the interests of American Indian tribes in the vital concern for the education of their children.

If you have a doubt as to whether this particular segment of the bill should be separated from the Department, resolve that doubt in line with the intention of the tribes and the parents of Indian children. If you do that, you will support this amendment. You will be carrying on a concern and recognition of all Americans toward fair treatment for their fellow Indian citizens. I believe you will be acting in the best interests, not only of this Department and of the education of Americans in general, but of particular sensitivity and concern to the problems of the literally hundreds of thousands of Indian children that depend

of this country, but we came roughshod across the eastern plains of this Nation. We did not engage in treaties and tribal recognition patterns, but there are Indian people in Baltimore, there are Indian people in my North Carolina colleague's town of Charlotte. There are Indian people in North Carolina not a part of any tribe. Keep them in this act. Keep them in the Department of Education. Defeat this amendment.

Mr. MARTIN. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I will be happy to yield to my colleague.

Mr. MARTIN. Mr. Chairman, I thank my colleague for yielding to me.

Some time ago, I think I had been swayed by the kind of arguments such as spoken here by our earlier colleagues, in favor of having a separate Indian education program, rather than to have education for Indians as a part of the American education system.

Yet I, too, have heard from some constituents who make the point that there are Indians, Americans of Indian ancestry, who are off reservation and who have made it point to blend their lives into the American way of life as it has evolved over the last 100, the last 50, the last 10 years. They make the case that they believe education for their children will be superior if it is a part of the same education system as for all Americans today, rather than to have some limited form of education.

Mr. ROSE. Mr. Chairman, I thank the

mission to revise and extend his remarks.)

Mr. FOLEY. Mr. Chairman, I realize that the hour is growing late and the patience of the Members, particularly on this legislation, is growing thin.

I support this bill. I intend to support it, regardless of the outcome of this amendment offered by my friend, the gentleman from Michigan (Mr. KILDEE).

I want to compliment the distinguished chairman of the committee and the members of the committee on both sides of the aisle for their diligence and concern in dealing with the many amendments that have come forth in the committee with respect to the legislation.

I think it was the gentlewoman from New York (Mrs. CHISHOLM), who said that if there is one strong case for separating a segment of educational policy now carried on by another agency from the new proposed Department of Education, it is with respect to Indian education.

Among the more than 200 organized federally recognized tribes in the United States, there is virtual unanimity of opinion that the Indian education program should continue under the Bureau of Indian Affairs.

There is similar unanimity of feeling among the Alaska Federation of Natives that represent 201 Alaska Native villages and organizations.

The policy of the United States with respect to Indian tribes has been a difficult and checkered one, spanning the whole of our history If there is one theme that has become the theme of our modern relations with our Indian citizens, upon special concerns and and the special attention that Indian education must provide.

I hope that all members of the committee will on this one occasion join together on both sides of the aisle and support this amendment.

Mr. ROSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to speak very briefly for a group of Indian people who have not been mentioned by the eloquent remarks of my preceding colleagues. There may be hundreds of thousands of Indian people in this country tonight in federally recognized tribes who would be in favor of this amendment, but there are hundreds of thousands of Indian people in this country tonight who are not members of federally recognized tribes who are opposed to this amendment, who wish to be treated like all other American citizens in this act and to be a part of the Department of Education.

I represent 40,000 Lumbee Indians who are recognized by the State of North Carolina as being Lumbee Indian people. If this amendment passes, they will no longer participate in the Indian education programs that they now enjoy or that they will enjoy if this bill is passed just as it has been written.

I urge my colleagues, the Indian policy of this country has not been uniform. The niceties of treaty and reservations only came to pass when the white man got to the west coast and the central part gentleman for his comments.

Mr. KILDEE. Will the gentleman yield?

Mr. ROSE. I will be happy to yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I appreciate the gentleman's concern, because we do know there are various classes of Indians in various situations in this country.

Mr. ROSE. Mr. Chairman, I submit to the gentleman, there are not but one class of Indians.

Mr. KILDEE. There are various types of services and various legal classifications for Indians. For example, there are those who have chosen to stay on the reservations and those who have not.

This in no way affects the nonrecognized tribes. To be very specific, this in no way affects the Lumbees in the gentleman's State.

We are talking about the jurisdiction of the present program being transferred from one department to another. It will not affect, for example, as I said, the Lumbees in the gentleman's State. It really does not affect the nonrecognized tribes; so we do have two classifications, one class of people, I would hope, but two classifications of Indians under the law.

Mr. ROSE. Mr. Chairman, I appreciate the gentleman's sincerity. I am not persuaded that that would be the case.

I apologize for losing my voice here at this moment.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I would be happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I ask

one simple question. Are we setting up double standards in this Congress? On the one hand we are trying to instigate busing to achieve an integration, an equal standard of education throughout our society, and on the other hand we are going to set up a separate educational department, especially for the tribes to keep them separate?

Mr. ROSE. I agree with the gentleman and I thank my colleague.

Mr. JOHNSON of Colorado. Mr. Chiarman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I do not follow the gentleman's logic, because those Indian children that are not subject to the BIA now if this bill passes will then become subject to the Office of Education or the Department of Education. They will be treated as the rest of American children are and those Indian children that are now under the jurisdiction of the BIA will remain under the jurisdiction of the BIA.

Mr. ROSE. But they are Indians.

Mr. JOHNSON of Colorado. How does that affect the gentleman's Indian tribe, the Lumbees?

□ 2150

Mr. ROSE. They are Indians, let me say to my friend, and they are entitled to the programs this Government has set up just for Indians.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Rose) has expired.

(By unanimous consent, Mr. Rose was from the Department of the Interior to the proposed Department of Education would not go to Education; they would go back to Interior.

Mr. Chairman, I wonder if some Member can tell us something more about that?

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, the gentleman is exactly correct. This will not change what people are being served or the programs.

For example, the Indian Education Act is not under the BIA now; that is under HEW. This will not change that at all.

We are talking about the BIA programs which serve a certain group of Indians and not the Indians about whom the gentleman is very deeply concerned. This will not change at all, I assure the gentleman.

I recognize that we have classified them by law in different ways, but this will not change what people are being served or the program. It is a question of which Department will have jurisdiction over the programs serving the same people.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would point out that my youngest daughter—I call her "my little Indian princess"—is part Chickasaw.

So I have no prejudice whatsoever against Indians. I love them dearly. ment in the committee on the DOD schools and decided the DOD schools should remain within the Department.

It was the considered judgment of this member and of other members on the committee that if we were going to put the largest school district run by the Federal Government into the Department, it would be well to consider the second largest as well, and this Department, in light of being a comprehensive Department serving a broad Federal jurisdiction should include the broad range of those services. That was certainly my intention in sponsoring this amendment. I think it does improve the Department if we are going to have a Department.

Mr. Chairman, I certainly appreciated the gentleman's support of the amendment when it went in there. I oppose this amendment, and I thank the gentleman from Texas (Mr. Brooks) for his statement.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Kildee).

The question was taken; and on a division (demanded by Mr. Kildee) there were—ayes 71, noes 58.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 170, not voting 29, as follows:

[Roll No. 236]

allowed to proceed for 1 additional minute.)

Mr. JOHNSON of Colorado. But, Mr. Chairman, if the gentleman will yield further, these Indians do not receive the benefits of BIA now, and they will not be affected by the passage of this amendment.

Mr. ROSE. They are entitled to the benefits of this act that we are debating today and tonight, and I want to say they are deserving. They have an Indian culture, and their culture is just as rich and just as rightly deserving to be preserved as that of other Indians and of those Members who represent Indians and tribes that are on reservations.

Mr. Chairman, I yield back the balance of my time.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not sure I understand correctly the position taken by the gentleman from North Carolina (Mr. ROSE). As I understand the situation, section 307(a) of the act says:

> There are hereby transferred and vested in the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

I think the people the gentleman from North Carolina (Mr. ROSE) is talking to and about have nothing to do with the amendment. The amendment applies only to this section and those persons who are covered in this section. What I understand the amendment to say is that those programs that are transferred

In the transfer of all the Indian education programs to the Department of Education, we will encourage the needy development of comprehensive, consistent policies and we should significantly improve the educational experience of Indian students all over this country, whether they are one class of Indians or another class or whatever we want to talk about.

I do not think anybody in his right mind can say that the Indian education programs to date have been a triumphant success. The Members are keenly aware of the special relationship which exists between the Federal Government and the Indian tribes. This transfer will not change that special relationship in any way.

The goals sought by this provision of the bill include improvement of the delivery of the education services to all the Indian children of this Nation, and I would oppose the deletion of the transfer and hope it will remain in the Department of Education.

Mr. WALKER. Mr. Chairman, will the distinguished chairman of the committee yield?

Mr. BROOKS. I yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the committee chairman for yielding.

As the principal sponsor of the amendment in the committee which put the BIA schools in the Department, I think it is well to note the reason why the committee made this decision which the distinguished chairman of the committee supported at that time, and that was that we had just considered an amend-

AYES—235

Addabbo
Akaka
Albosta
Alexander
Anderson,
  Calif.
Andrews,
  N. Dak.
Annunzio
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bowen
Brinkley
Broomfield
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corman
Crane, Philip

Daschle
Davis, Mich.
de la Garza
Dellums
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Downey
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Erdahl
Evans, Ga.
Evans, Ind.
Fazio
Ferraro
Findley
Fish
Flippo
Foley
Ford, Tenn.
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammer-
  schmidt
Hance
Hanley
Hansen
Harkin

Harsha
Hawkins
Heftel
Hinson
Holtzman
Hubbard
Hughes
Hutto
Ichord
Johnson, Colo.
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lewis
Lloyd
Long, Md.
Lott
Lowry
Lujan
Luken
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marriott
Mica
Michel
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery

Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Paul
Pease
Pickle
Pritchard
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Ritter
Roberts
Rodino
Roe
Rosenthal
Roth
Rousselot
Rudd
Runnels
Russo
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Sharp
Shumway
Simon
Slack
Smith, Iowa
Snyder
Solarz
Solomon
Stack
Stangeland
Stark
Steed
Stewart
Stokes
Studds
Stump
Swift
Symms
Taylor
Thomas
Udall
Ullman
Vanik
Vento
Volkmer
Watkins
Waxman
Weiss
White
Whitehurst
Whittaker
Whitten
Winn
Wirth
Wolpe
Wright
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—170

Ambro
Anderson, Ill.
Andrews, N.C.
Anthony
Ashbrook
Ashley
Aspin
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bethune
Boggs
Bouquard
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Hagedorn
Hall, Tex.
Harris
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Huckaby
Hyde
Nedzi
Nelson
Panetta
Patterson
Perkins
Petri
Preyer
Price
Pursell
Quayle
Quillen
Railsback
Ratchford
Rinaldo
Robinson
Rose
Rostenkowski
Roybal
Santini
Satterfield
Schulze
Seiberling
Sensenbrenner

Mr. Conyers for, with Mr. Johnson of California against.

Mr. Abdnor for, with Mr. Ford of Michigan against.

Mr. Clay for, with Mr. Erlenborn against.

Mr. Diggs for, with Mr. Pepper against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 74, line 22, strike "TRANSFERS FROM THE DEPARTMENT OF JUSTICE" and all that follows through line 6, page 75, redesignating succeeding sections accordingly.

Mr. McCLORY. Mr. Chairman, my amendment would effectively strike the existing section 305 from the proposed bill, H.R. 2444. Section 305 transfers certain criminal justice educational programs from the Law Enforcement Assistance Administration (LEAA) and the Department of Justice to the new Department of Education. It is my position that these programs would be sorely reduced in their effectiveness if such a transfer is allowed to take place.

The affected programs, namely the law enforcement education program and the law enforcement intern program, are currently designed to acquaint active and future members of the law enforcement community with up-to-date training and education in criminal justice-related subjects. Supervision of these programs requires an expertise in criminal justice matters which LEAA ment be adopted and that section 305 be stricken from the proposed bill.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

Now do I understand the gentleman's amendment is to take out of this wonderful new Department that is being proposed, that is going to really upgrade and improve the educational system for our country, one more group of programs?

In other words, what the gentleman is saying is that he wants to get these programs out of this Department, this proposed Department, back into the place where it is now? Is that what the amendment is?

Mr. McCLORY. The effect of my amendment is to retain in the Department of Justice programs that are presently administered there, being administered successfully and with the full support of the law enforcement community.

I think it would be a terrible mistake to deprive the persons who are administering it of the opportunity to continue these very useful and very successful programs which provide law enforcement education and training.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Missouri.

Mr. VOLKMER. We have put out of the Judiciary Committee a bill to reauthorize law enforcement administration; is that correct?

Burlison
Butler
Campbell
Carney
Cleveland
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Deckard
Devine
Dougherty
Drinan
Duncan, Tenn.
Emery
English
Ertel
Evans, Del.
Fary
Fascell
Fenwick
Fisher
Fithian
Florio
Fountain
Fowler
Giaimo
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Leath, Tex.
Lent
Levitas
Livingston
Loeffler
Lungren
McCloskey
McDonald
Marks
Marlenee
Martin
Mathis
Matsui
Mattox
Mazzoli
Mikva
Mineta
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Shannon
Shelby
Shuster
Skelton
Smith, Nebr.
Snowe
Spellman
Spence
St Germain
Staggers
Stanton
Stenholm
Stockman
Stratton
Synar
Tauke
Thompson
Traxler
Trible
Van Deerlin
Walgren
Walker
Wampler
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wolff
Wyatt
Wydler
Yatron
Young, Mo.

NOT VOTING—29

Abdnor
Bolling
Clay
Conyers
Davis, S.C.
Derrick
Dicks
Eckhardt
Erlenborn
Flood
Ford, Mich.
Forsythe
Gibbons
Ireland
Johnson, Calif.
Kastenmeier
Lehman
Long, La.
Lundine
Mavroules
Mikulski
O'Brien
Pepper
Peyser
Royer
Treen
Vander Jagt
Weaver
Wilson, Bob

☐ 2210

The Clerk announced the following pairs:

On this vote:

and the Department of Justice possess and which the new Department of Education does not. Properly educated police personnel are an essential ingredient in any effective fight against crime and it is simply inappropriate to talk about transfering that responsibility to a newly created agency.

H.R. 2061, the bill to reauthorize LEAA, was recently reported favorably by the Committee on the Judiciary. The Senate bill, S. 241, passed by the Senate 67 to 8, retains the LEEP authority in LEAA.

In the meantime, it should be noted that since the proposed transfer of LEEP responsibilities became imminent, several academic institutions and professional organizations have contacted me to voice their opposition. They include:

The International Association of Police Chiefs;

The Academy of Criminal Justice Sciences;

The National Association of State Law Enforcement Training Commission;

The National Advisory Commission on Higher Education for Police Officers;

National Sheriff's Association;

The Southwestern Association of Criminal Justice Educators;

The Midwestern Association of Criminal Justice Educators;

The University of Illinois at Chicago Circle;

California Peace Officer's Association;

The John Jay College of Criminal Justice;

Michigan State University School of Criminal Justice; and

Numerous colleges and universities.

Mr. Chairman, I urge that my amend-

Mr. McCLORY. Yes, we have.

Mr. VOLKMER. In that bill there is a provision that, upon the creation of a Department of Education, those programs having to do with education, that grants to higher education or institutions for law enforcement shall be transferred to the Department of Education. That is in the bill reported out of the Judiciary Committee.

Mr. McCLORY. Let me say this. That is in the bill that came to us from the administration, but the bill when it was passed on the floor of the Senate took on an amendment that was consistent with what I am trying to do here.

I expect that when the LEAA bill comes out of our committee and is debated on the House floor, it will take on an amendment consistent with the amendment that I am offering here and which will be consistent with the Senate bill.

☐ 2220

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I would just say briefly that the Judiciary Committee realized that these programs are going to be in the Department of Education. This is just another case of let us have a Department of Education, let us have a reorganization, but do not put our program in it. I am on the Judiciary Committee. I understand that attitude.

But, you cannot reorganize the Federal Government in any way if that attitude is going to prevail on every committee and everybody wants to protect his own turf. That is why we have so much duplication and waste within the Federal Government.

The main reason for establishing a Department of Education is to cut down on duplication and waste. Careful consideration has been given to all of the programs going into it. This one fits well in the Department of Education and should remain there despite the Judiciary Committee attitude.

Mr. McCLORY. Would the gentleman yield?

Mr. BROOKS. Certainly.

Mr. McCLORY. I just want to point out that the Department of Justice and LEAA already have the personnel, they already have the know-how, they already have the expertise. The duplication is going to come if you duplicate that same kind of talent in a Department of Education which you already have at present in the Department of Justice.

Mr. BROOKS. I want to thank the gentleman and point out that the Department of Justice has not done what we would call an exemplary job. The LEAA program has had as much mismanagement as there has been in almost any operation we have going in the Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and on a division (demanded by Mr. McCLORY) there were—ayes 65, noes 84.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I de-

NOES—275

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carney
Carr
Cavanaugh
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Gray
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Skelton
Slack
Stockman
Treen
Vander Jagt
Waxman
Weaver
Wilson, Bob
Winn

☐ 2240

Mr. ANDREWS of North Dakota changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: On page 70—

In line 16, strike out the word "and";

In line 18, after the semicolon, insert the word "and"; and after line 18, insert the following:

"(Q) under the Headstart-Follow Through Act;"

Mr. GOODLING. Mr. Chairman, since we have had so many amendments recently dealing with taking something out of the Department of Education, I thought it might be appropriate to offer an amendment that would put something into it or we may not have anything in the Department.

When I spoke the other day—and I forget which day it may have been at this point—I ended my comments by saying that if we really wanted to help children—and I think that is what this whole debate and discussion should be about—we would take the money we want to spend for this department and send it back to the local governments mand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 275, not voting 31, as follows:

[Roll No. 237]

AYES—128

Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Badham
Bafalis
Barnes
Bennett
Bethune
Bingham
Brinkley
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carter
Cleveland
Coleman
Collins, Tex.
Cotter
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Erdahl
Evans, Del.
Fenwick
Ferraro
Findley
Fountain
Gilman
Gingrich
Goldwater
Gradison
Gramm
Green
Grisham
Guarini
Guyer
Hamilton
Hansen
Harkin
Hinson
Hughes
Hyde
Jeffries
Johnson, Colo.
Kastenmeier
Kramer
Lagomarsino
Latta
Lee
Lent
Lewis
Livingston
Loeffler
Lungren
McClory
McEwen
McKinney
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moorhead, Calif.
Murphy, Ill.
Myers, Ind.
Nelson
Obey
Ottinger
Pashayan
Paul
Petri
Pickle
Price
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rousselot
Rudd
Satterfield
Sawyer
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Solarz
Solomon
Spence
Stack
Stanton
Stenholm
Stratton
Stump
Symms
Taylor
Thomas
Wampler
Watkins
Weiss
White
Whitehurst
Wolff
Wylie
Young, Alaska
Young, Fla.

Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corcoran
Corman
Crane, Daniel
D'Amours
Danielson
Dannemeyer
Daschle
Dellums
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Eckhardt
Edgar
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lott
Lowry
Lujan
Luken
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mazzoli
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Smith, Nebr.
Snowe
Snyder
Spellman
St Germain
Staggers
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—31

Bolling
Clay
Conyers
Coughlin
Davis, S.C.
Derrick
Diggs
Duncan, Oreg.
Flood
Forsythe
Ichord
Johnson, Calif.
Kindness
Long, La.
Lundine
Mavroules
Mikulski
Nichols
O'Brien
Royer
Runnels
Simon
Stangeland
Stark

telling them to use it to reduce the pupil-teacher ratio in our early childhood education programs. I pointed out that the die is cast in a child's life early and that if we really wanted to help children we would then use this money to give those youngsters and the teachers who are working with those youngsters a fighting chance.

Second, I said that I had told the local education organization, the State education organization, and NEA that I could not support a proposal that was not all inclusive. I do not know how we can dissect children or dissect the education of children or adults.

In fact, the chairman, the gentleman from Texas (Mr. Brooks) in his last remarks made the statement that the problem now is that everyone is trying to protect their own turf. That is the exact argument I have used with NEA; everyone wants to protect their own turf, not think about the education of the youngsters.

I also told NEA if we could get an all-inclusive Department of Education, then we would have an opportunity perhaps to have one committee in the Congress of the United States dealing with the very, very important subject of education.

Mr. Chairman, I will now turn to my amendment.

People have said, this evening particularly and during the entire discussion, that if you are opposed to the concept of the Department of Education and you offer an amendment, then there is a question about your motivation and a question about your integrity.

Now, the next statement they make is, "I am not talking about the motivation or integrity of the person in the well but about the amendment."

You cannot question the motivation and integrity of the amendment so you have to be questioning the motivation and integrity of the person who is offering the amendment.

Let me tell you, folks, if it is the judgment of the Congress of the United States, whether it is good or whether it is bad, to establish a Department of Education, then those of us whose life has been involved in the business of education want to make very sure that it is the children we are considering when we establish a Department of Education. So we should be offering amendments to make sure that the children are protected.

My amendment would include Head Start in a Department of Education. How could you possibly divorce anything as important as Head Start from the overall education of a child?

What was the purpose of Head Start? The Purpose of Head Start was to give disadvantaged youngsters an opportunity for a head start when they get involved in the educational process. A head start when they get involved in the educational process. That is what we are talking about, a Department of Education for that purpose.

What happened in the early history of the Head Start program? It was almost a self-destruct program. Why? Because the people involved with the Head Start program said, "The people who are involved in education are not to be trusted."

Let me go on to say, after it got off to a rocky start. Finally they realized in the Head Start program that it had to be a continuing process. They had to get the early childhood people involved. They had to get the people who were dealing with the education of the youngster involved in the program. Therefore, it became a much more successful program. In fact, so much so, because of that involvement, that, today many of the local educational administrative units are, in fact, administering the Head Start program. There is no question that the Head Start program is now functioning much better because of the involvement of the over-all educational system.

Now, I know the first argument that I will hear will be, "But Head Start is more than education."

The first thing they will say is, "We deal with child nutrition; we deal with food."

Well, of course we do. How can you educate a child if he is hungry or if he is getting a poor diet? You cannot.

Another argument we will get will be, "We also involve them in medical programs."

Of course. The education of a child who is not receiving proper medical attention is not going to be a successful education.

We will then get the argument, "But with Head Start we had parent involvement and group involvement."

That was a good argument back in the early 1960's.

☐ 2250

Mr. OTTINGER. Mr. Chairman, I of-

Because on the one hand we had the Head Start program with the Assistant Secretary for Human Development. We had the follow through program in the Office of Education. They not only did not work together, they did not even speak to each other.

So, Mr. Chairman, I think it is extremely important that an important program such as Head Start be a total part of the whole educational process of a child.

I would hope that we make our decision whether to vote for or against a separate Department of Education in a statesmanlike manner.

I would hope our only concern and our only thought would be about children and the education of children.

I would not hope that we would vote simply because we made some idle promise years ago or recently to some organization, that we will support you on that, thinking that it would not come up or maybe thinking that it would be a comprehensive program; but I must go back and say what the chairman said recently, the gentleman from Texas (Mr. BROOKS) about the problem with the bill. "Everyone wants to protect their own turf," so we will not have an education agency that will operate with the concern of the overall education of youngsters and adults.

I would hope you would support the amendment to put something into the Department of Education, rather than take it out.

Mrs. CHISHOLM. Mr. Chairman, I

volved in early childhood education are not doing a good job. We know a better way to do it."

Therefore, without any consultation, in fact with open hostility toward those people whose involvement was in early childhood education, they moved ahead blindly.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. Rousselot, and by unanimous consent, Mr. Goodling was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield to me?

Mr. GOODLING. I yield to the gentleman from California.

Mr. ROUSSELOT. Do I understand the Head Start program activity is mostly educational in nature?

Mr. GOODLING. Education in all of the things that go into a good education of a youngster.

Mr. ROUSSELOT. Mr. Chairman, is it mostly preschool?

Mr. GOODLING. It is preschool.

Mr. ROUSSELOT. You are convinced that this will be better established here?

Mr. GOODLING. Mr. Chairman, I am convinced it has to be a continuation of the child's education. You cannot divorce that preschool program from the continual education of the child.

Mr. ROUSSELOT. That is quite convincing. I suppose the chairman will want to accept it.

Mr. GOODLING. I suppose.

fer a preferential motion.

The CHAIRMAN. The gentleman from Pennsylvania still has the floor.

Mr. GOODLING. And I would like to continue with my amendment.

Mr. OTTINGER. Mr. Chairman, I believe that the preferential motion takes precedence over the amendment.

The CHAIRMAN. The Chair will state that the rules do not provide for a preferential motion under the circumstances.

The gentleman from Pennsylvania may continue.

Mr. GOODLING. Mr. Chairman, next, of course, as I said, people will argue, but there is parental involvement in Head Start. That was a good argument in the early sixties, particularly; but now we have passed handicapped education, we have an IEP program—we have total involvement by many parental groups because they were concerned and because they became involved and because we legislated their involvement.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Goodling) has expired.

(By unanimous consent, Mr. Goodling was allowed to proceed for 3 additional minutes.)

Mr. GOODLING. Mr. Chairman, let me carry this one step further. When we got the Head Start program rolling, we discovered that when they got into a setting in a regular school system, there seemed to be a problem of retaining the Head Start they made in the Head Start program, so there was developed a follow through program. It was a complete disaster. Why was it a complete disaster?

move to strike the requisite number of words. I rise to oppose the amendment of my good friend, the gentleman from Pennsylvania (Mr. Goodling).

Mr. Chairman, I think one of the many difficulties that we do have from time to time is the differences in the definitions of a Head Start program, a prekindergarten program, a nursery school program, and a day care program.

Now, with all of these different programs, there are different components that make up each program; I desire to say to you that Head Start is a program that involves the community and the parents and all of the social services in a composite whole. This was part of the reason for my difficulty when the department was being put together of seeing that the Head Start program was going to be moved out of HEW; health, which is a very important part of the entire Head Start program and, of course, the educational component and the welfare component in terms of the social services that are brought into the Head Start program in order to help families become more stable and thus be able to supervise their children in a much better way; from that standpoint, I think that the Head Start program is one of the programs that should not be placed in the separate Department of Education for the reasons which I have outlined.

Mr. KAZEN. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. Yes, I will yield.

Mr. KAZEN. Mr. Chairman, let me ask the gentlewoman, where are the Head Start programs? Where do they take place? Are they not in schoolrooms, in school buildings?

Mrs. CHISHOLM. Some Head Start programs are in school buildings. Some Head Start programs, quite a number of them, are in community settlement houses.

Mr. KAZEN. Yes, but are not the majority in school buildings? Are not the school buildings under the Department of Education, under the school boards?

Mrs. CHISHOLM. The majority of Head Start programs, at least in New York City, I do not know about Texas, but at least in New York City, are not in school buildings.

Other child programs, but not Head Start.

Mr. KAZEN. I would submit that the majority of them all over the country are in school buildings and they are part of the educational system.

Mrs. CHISHOLM. But I am not arguing from that premise. I am arguing from the premise that this is a composite whole that we are dealing with. We are not only dealing with the educational needs of these very young children. We are also dealing (this is why the Head Start program came into existence) with the social service components in the family as well as medical services. All of these are very important parts of the Head Start program. This is why the combination of health, educational, and welfare services have been so important from the inception of the program.

Mr. KAZEN. But the custodial of the program is the basis for it and the educational part of it is the integral part of Head Start and the starting of that child

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield further?

Mrs. CHISHOLM. Yes, I certainly will.

Mr. GOODLING. Of course, I agree with all of that and it has changed tremendously and dramatically.

Would the gentlewoman not also say that at the present time it is working much better because we got the early childhood people involved in the program who were not wanted originally and now would this not signal to them that we should divorce again the education of the youngsters, once they get into a school situation from the Head Start program?

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the administration at one time wanted to include Head Start, but we had so many complaints from the people that operated Head Start that I suggested to them last year that if I was going to introduce the bill, I would not include Head Start.

I think now that most of the people in Head Start do not want to be involved in it. They like their operation now and the local people seem pleased with it. It is one of the programs in HEW that does seem to be working satisfactorily now. I would hate to disrupt its operation now.

I would ask for a no vote on the amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from California.

York (Mrs. CHISHOLM) exhibit a fatal flaw in the bill which we are now debating, because the fact is that, as the gentlewoman from New York points out at least in terms of early childhood education, these other issues—nutrition, involvement of parents, and the social issues—are very much a part of the educational issues. And after all, the ultimate objective of Head Start is to improve how children do in school.

I think the gentlewoman is right when she points out that it is necessary to have all these other components in Head Start in order to make it work. But I would suggest that it is also necessary to have all these other components in education after Head Start if we are going to make education work.

The fact of the matter is, if we look at what has happened to children who have been in the Head Start program, we see them doing well in Head Start, but then they go into our regular schools, and they do not have that combination of inputs, and suddenly the head start they got starts to slip and slip over the years, and they are no longer getting the advantages that the Head Start program was designed to give them.

I would suggest to the Members that that occurs because we have isolated education within the Department of Health, Education, and Welfare from the other social problems that afflict the children in the schools, and particularly the children who are eligible for the Head Start program.

into the educational process.

Mrs. CHISHOLM. The gentleman differs with me in terms of the gentleman's premise. I speak from being a Head Start director for 6 years in New York City and being involved in Head Start programs.

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, in my argument, of course, I indicated that back in the sixties, in the early sixties particularly, that was all true; but would the gentlewoman not agree that the parental involvement now, the organizations involved, the fact that many programs are now Head Start programs administered by school districts, because we have made that transition and that everyone has to consider the health and the welfare of the youngster if we are going to do a job, that this is now something that has been corrected. It is different than it was in the early sixties.

Mrs. CHISHOLM. I see a minimization of the roles that the parents and the community will play if the Head Start program is put into a separate Department of Education.

I am not negating the fact that education is not perhaps one of the most important components. I am saying I am against any direction that tends to minimize the role of the parents and the community. The Head Start programs were developed precisely because people and local citizens were not involved in the education and the health and welfare of their children.

Mr. MILLER of California. Mr. Chairman, I would like to agree with the remarks made by our colleague, the gentlewoman from New York (Mrs. CHISHOLM), and by the chairman, the gentleman from Texas (Mr. BROOKS).

The only connection that I know of in many areas, certainly that I represent in California between Head Start and the schools is where the school enrollment is down and they have rented out classrooms to Head Start organizations.

I think one of the valuable components of Head Start is the involvement of the parents, of people in the community, of single fathers, of single mothers with their children. As soon as you absorb it in here, they are all going to have to have credentials. They are all going to have to be licensed by State agencies. They are all going to have to be licensed by the Department of Education and we are going to lose that community support for Head Start.

☐ 2300

Mr. Chairman, that is exactly what we want to do. We are seeing a number of Members who are opposing this bill who would love to have Headstart absorbed into the Department of Education. At that point Head Start is not "Head Start"; we might as well call it "kindergarten" and go back to where we were before.

Mr. Chairman, I urge the Members to reject this amendment.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that the remarks of the gentlewoman from New

I would like to suggest to the Members, that instead of isolating education still further from our means of dealing with all the other social problems that affect education by creating this isolated Department of Education, what we really ought to be doing is insisting that the Office of Education really start to participate in HEW and really start to get the benefits of the other inputs in HEW.

So I would suggest that the fact that the Members who support Head Start do not want it in an isolated Department of Education really teaches us a lesson. It really says to us: If 4-year-olds and 5-year-olds should not be in an isolated Department of Education, why should 6-year-olds and 7-year-olds and 10-year-olds and 18-year-olds be in an isolated Department of Education?

The same problems that affect the 4-year-olds and the 5-year-olds affect all education in this country, and I think the gentlewoman from New York (Mrs. CHISHOLM) has shown why this bill is such a very poor idea.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, maybe we have all learned something very interesting in the last half hour. I have been on an Education Committee for some time, and I am just now learning that Head Start is different in our schools because it involves parents and it involves the community. That is a really novel argument.

I have always been under the assumption that our schools that are supported by taxpayers and which are the recipients of the children of our parents and taxpayers are involved in the community. But for some reason or other we are now hearing that Head Start is different from our high schools and our elementary and secondary schools.

Think about that for a minute. Our friend, the gentleman from California (Mr. MILLER), a very learned member of our committee, talked about the involvement of parents in the community. The gentlewoman from New York (Mrs. CHISHOLM), a very learned member of our committee, talked about Head Start being involved with parents in the community. I wonder, in the 120,000 school districts in our country, where there is one that does not have the involvement of the parent and the community.

Head Start should go into our schools, Mr. Chairman, and I support my colleague, the gentleman from Pennsylvania (Mr. GOODLING) in his amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

I would like to make two comments. The chairman of the committee said it is a good program; therefore, we should leave it where it is.

Mr. Chairman, just a minute ago the gentleman said that the problem is that everyone is trying to protect their interests. Every Member who got up and wanted to take something out of the Department of Education said, "It is a good program, it is working well, and they do not actually participate. These are the low-income parents who participate in Head Start.

Head Start was an effort to bring them back and get them involved with the children and give the children exactly what the program says: A "head start." That is why we have made it different than the rest of the educational programs.

Mr. GOODLING. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, let me inform my friend, the gentleman from California (Mr. MILLER), that ESEA programs in fact go out into the home, work with mothers and fathers, and involve those mothers and fathers. And I hope the gentleman does not say, "no," because I ran one for 5 years.

They go out into the home and truly involve those parents because they even have a one-on-one situation before they can bring them into a group setting.

So, Mr. Chairman, there is no difference between these two programs, depending on who runs the programs. There is parent involvement because the Congress of the United States mandates it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Murphy, Pa.
Myers, Ind.
Panetta
Patten
Petri
Pursell
Quayle
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Runnels
Russo
Sabo

Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stanton
Stenholm
Stump
Symms
Synar

Tauke
Taylor
Thomas
Traxler
Trible
Walker
Wampler
White
Whitehurst
Whittaker
Williams, Mont.
Winn
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—230

Addabbo
Akaka
Albosta
Alexander
Anderson, Ill.
Andrews, N.C.
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Bethune
Biaggi
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley

Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gradison
Grassley
Gray
Guarini
Gudger
Hall, Tex.
Hammerschmidt
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck

Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal

let's not mess it up now."

That is the same argument that was just made for taking this out or keeping this out of the Department of Education.

And then we heard the statement: "Gee, Head Start deals with parent involvement. We don't want to mess that up."

Let me tell the Members that a great deal of ESEA-1 money happens to go to early childhood education, preschool education. And let me tell the Members that the Senator from Massachusetts unfortunately got an amendment through our last bill which is going to spend thousands and thousands and thousands of dollars, taking away from the education of youngsters in ESEA-1 programs and giving it to what he calls involving the parents.

ESEA programs are in many instances preschool programs. Many are similar to Head Start programs, and they are totally controlled in relationship to parental involvement by the Congress of the United States. This is no different.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the concept is much different because in those other programs they do not allow parents to spend time in the classroom teaching their own children and teaching children from other parts of the community. They have to be members of the advisory councils or they have to serve on coordinating committees, but

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 230, not voting 25, as follows:

[Roll No. 238]

AYES—179

Abdnor
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bereuter
Bevill
Blanchard
Bouquard
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Flippo
Frenzel
Giaimo
Glickman
Goldwater
Goodling
Gramm
Green
Grisham
Guyer
Hagedorn
Hamilton
Hansen
Harsha
Hinson
Holt
Hopkins
Howard
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lent
Levitas
Livingston
Loeffler
Lott
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl

Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corman
Cotter
D'Amours
Danielson
Daschle
de la Garza
Deckard
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Holtzman
Horton
Huckaby
Hutto
Ireland
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lee
Lehman
Leland
Lewis
Lloyd
Long, Md.
Lowry
Lujan
Luken
McHugh
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitley
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Young, Mo.
Zeferetti

NOT VOTING—25

Bingham
Bolling
Conyers
Davis, S.C.
Derrick
Diggs
Downey
Flood
Forsythe

Fowler
Hall, Ohio
Hanley
Johnson, Calif.
Long, La.
Mavroules
Moffett
Nichols
O'Brien
Royer
Stockman
Treen
Ullman
Vander Jagt
Weaver
Wilson, Bob

☐ 2320

Mr. LEVITAS and Mr. JACOBS changed their vote from "no" to "aye."

Mr. DODD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by WALKER.

On page 76 after line 14, insert:

"TRANSFERS FROM THE DEPARTMENT OF STATE

"SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested in the Secretary of State or the Department of State with regard to the Educational Exchange—Graduate Students (Fulbright-Hays) Program under Public Law 87-256, as amended."; and

In line 16, strike out "308." and insert in its place "309."

Conform the table of contents accordingly.

Mr. BROOKS. Mr. Chairman, I reserve a point of order. I did not hear the amendment too well.

Mr. WALKER. Mr. Chairman, what this amendment does is it transfers the Fulbright-Hays program, which now resides in the Department of State, to the new Department of Education.

It seems very clear to me that this is

Mr. Chairman, I recognize that there are a lot of programs that are tweedledum or tweedle-dee, whether they go in the Department of Education or in another department.

This particular program involves our relationships with a great many countries. It is not something that should be capriciously transferred to a department that does not have those kinds of relationships established. It is mischievous. It is not the kind of thing that I think we ought to be doing.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I would like to share in my colleague's remarks.

We have here one of the best programs and one which shows the diversity which is the whole genius of American education. We do not want one single authority choosing which students, right from the top, throwing out complete control in all aspects of education. I think it would be most unwise to take this away from the Department of State.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I would be pleased to yield to my colleague from Florida (Mr. FASCELL).

☐ 2330

Mr. FASCELL. Mr. Chairman, if the committee needed any evidence about the Marshall plan. The excess currency that we own in these countries had to be used in some way and so we adopted this program to spend them on education. It certainly belongs in the new Department.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was rejected.

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. OBEY moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. OBEY. Mr. Chairman, those of you who know me and know my record in this House know that I am a friend of education. I do not think I have to remind the Members what my involvement was in the education bill and in education funding just 3 weeks ago on the budget resolution.

I also ought to point out that I think that virtually every meeting that has taken place on Capitol Hill in the last 7 years when we pulled education groups together to discuss how much we were going to be able to raise the President's budget in the area of education, virtually every one of those meetings have taken place in my office. I have offered at least half of the amendments that have been offered in this House to significantly raise Appropriation Committee spending on education in the last 7 years. So,

1468

1475

the kind of program that should come over to this comprehensive Department of Education. This is an educational exchange program for graduate students.

Let me describe a little bit what the objectives of the program are. It is to improve and strengthen international relations of the United States by promoting better mutual understanding among peoples of the world through educational exchanges.

Now, this is a program of grants. That is exactly what this Department is all about, a program of educational grants. So what we are doing here is we are taking the grants which are designed to give the U.S. students the opportunity to live and study in a foreign country for one academic year and putting those into the new Department of Education.

The grants which we are talking about have specific terms and conditions to meet educational goals proposed by the grantee and approved by the Board of Foreign Scholarships in making the award.

In other words, Mr. Chairman, what this program is, is an educational scholarship grant kind of program. It would be perfectly appropriate for the students of this country to be under the jurisdiction of the Department of Education rather than having them under the jurisdiction of the Department of State.

So this is a program that we want to transfer into the Department of Education. I would urge the adoption of the amendment.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

how fast an unconsidered and mischievous amendment can be dreamed up in order to frustrate the legislative process, here it is. This is a simple one to consider on a very simple point made by the distinguished gentleman from Illinois because of the fact that you have arrangements now in all of the foreign countries through the Department of State and other appropriate agencies for conduct and management of these programs which do involve those kinds of relationships. Simply to transfer those over to a department which is primarily and fundamentally concerned with domestic education, the two really have no bearing.

Mr. SIMON. I would simply add in a late-night session once in a while we do things that we should not do. Let us not be so foolish as to accept this particular amendment.

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. BROOKS. I do not insist on the point of order. I withdraw the point of order.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I rise in support of this amendment because it is purely and simply education. The only nexus that it has to foreign affairs is that the funding for this education comes from excess credits built up during World War II and after World War II through lend-lease and through

I think I speak with some credibility in support of education.

I also want to make the point that I have very few AFT people in my district. I have an awful lot of NEA people. So I am not doing this from the standpoint of special interests.

I am opposed to this bill because I think if it passes it will significantly weaken the voice of education in this country. I want to explain why and in very simple terms.

Right now, with all due respect to the quality of the people who lobby for the education community in this country, it is my fundamental belief that the reason that we have been able to override veto, after veto, after veto to the Labor-HEW bill over the last 10 years has been because we have had a giant, progressive coalition composed of labor, composed of education, and composed of all of the health groups in the country, from the cancer lobby to the muscular dystrophy lobby to you-name-it. That is a progressive, potent coalition that has been able to get us what increases we have been able to get in the last few years on the education budget. With all due respect to the arguments made on the minority side of the aisle about all of the dangerous things this bill is going to do to education, I think those arguments are a lot of hooey.

I believe fundamentally, I know the education community wants visibility. They say they want a Cabinet-level office because it will give them visibility. But the fact is I would trade visibility for power any time. I think we keep power for education by keeping them in the same group with labor, with all of the health lobbies and with the education lobby in the same bill, in the same boat, and I guarantee the Members that if this Department passes you will pretty soon have on this floor a separate Education Department appropriation bill. That will mean that that progressive coalition will be split up, it will be a single-issue bill and you will not have the power we have had in the past.

I also want to refute the argument that what we need in the Cabinet is a voice speaking out for education, because then everything will be all right. That also is a lot of hooey. The Department of HEW does not decide what education is going to get; OMB and the President do. When we have a President like Ford and like Nixon, we are not going to get any money for education. When we get a President like Carter, we are. That is why we had an increase in funding last year. It was not because we had an increase in HEW, but because we had a damn good President, a President who cared about education.

So, I urge the Members, if they are to keep the education community in a powerful position in this country, vote to strike the enacting clause and end this nonsense.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the motion.

Mr. Chairman, this motion is premature. This is a major piece of legislation. The House has not finished it. The rule was designed to give Members a full and fair opportunity to debate H.R. 2444, will result in a better future for the young people of this country. I urge the Members to vote down this motion that would have the effect of killing this bill.

Mr. Chairman, I yield first to my distinguished friend from Massachusetts, the distinguished Speaker, Mr. O'Neill.

☐ 2340

(Mr. O'NEILL asked and was given permission to revise and extend his remarks.)

Mr. O'NEILL. Mr. Chairman, I have the greatest respect for the gentleman from Wisconsin (Mr. Obey). I appreciate the feeling of the Members of the House at this late hour. We have now debated this bill 8 hours today, about 6 hours yesterday, and a couple of hours the day before. If we adopt this motion, are we being fair to ourselves? Are we being fair to the institution? Are we being fair to the President of the United States who has sent this message to Congress? To thine own self be true. Be true to this body for which we have such a high regard. Sure, people like to say the image of Congress is low, but why is it low? Resolve in your own hearts why it is low.

We waste all of this time. Is that what we are going to say? We are going to give the press a field day, that we wasted some 14 hours.

There is merit on both sides of the legislation. The President of the United States tells me that he held 43 Cabinet meetings, and only once was education brought up at a Cabinet meeting.

There are going to be savings in this the enacting clause and hope that my colleagues will join me in making the Federal investment in education a truly effective one, through the establishment of a new Department of Education.

As many of my colleagues know, I served for 8 years a a member of the distinguished House Committee on Education and Labor and, during that time, had the opportunity to work with some of the great education Congressmen of this House. Together, Democrats and Republicans, we enacted some of the landmark education statutes of all time—the Elementary and Secondary Education Act, the Higher Education Act, and a number of other programs which have given aid and assistance to the Nation's schools, colleges, and students of all ages.

It is precisely that experience in authorizing and overseeing Federal education programs that has led me to the conviction that the $16 billion of education programs included in the proposed new Department deserve a better chance than they are now getting by their location within the behemoth of HEW. HEW is simply not an acceptable policymaking and administrative body. Layer upon layer of decisionmakers, redtape piled on redtape, office canceling out office—all combine to give the taxpayers far less for their tax dollar than they deserve.

Morale in the Office of Education has never been lower. There have been 13 Commissioners and Acting Commissioners of Education during the last 12

To kill the bill at this point would defeat that goal.

Members can vote against it if they want to. Members have had an opportunity to vote on a lot of amendments, and will have the opportunity to vote on some more. That is the democratic way to work our will on legislation affecting millions of Americans. The motion would be unfair both to the proponents and opponents of the bill.

In 1977, Members of this House voted overwhelmingly for a reorganization bill, a reorganization act. The RECORD is just full of those statements that Members made about how essential it is for the Federal Government to be organized more efficiently; so we could use tax money more wisely. In our campaign in 1976, we made those great claims.

Now, were we serious or were we just talking? It seems now that everyone wants to take the position of, "Reorganize them, but not us. Reorganize them, but not us."

This reorganization is not going to be a panacea; nobody thinks that it will. But the President of the United States is trying to reorganize the Government to make it work better. We should quit protecting turf, responding to special interests and help make this Government operate more efficiently and effectively.

I commend the President for trying to make our educational organization work for the benefit of 100 million students and teachers and parents in this country. I hope the Members will join me in supporting that effort, in the hope that the billions of dollars, 14, 15, 16 billion dollars we spend every year for education bill. All I know is that there is opposition as between two labor organizations.

Vote your conscience. I think the President is right. I commend the chairman of the committee for the trying time that he has had.

I have the greatest respect for the gentleman from Wisconsin (Mr. OBEY). He is bitterly opposed to the bill. I understand that. Do not let the bill go down this way. Vote your mind, your conscience, when you have heard the entire argument. I hope this motion does not prevail, and I hope the bill ultimately passes.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I would just like to indicate to the Members of the House that this committee has spent a lot of time and a lot of hours in the last Congress and in this Congress bringing this bill to the floor. The gentleman in the well, the chairman, and I have tried to give every Member an opportunity to be heard, to offer their amendments, and it seems to me that the chairman was exactly right when he said it is premature to vote on this bill in this manner.

Let me just add one further thing. This is a good bill because it does provide for better management and a better accountability, and that is what we need in this Congress in order to get oversight.

Vote this motion down.

Mr. SCHEUER. Mr. Chairman, I rise in opposition to the motion to strike years. Good civil servants who care about congressionally mandated programs tell me that the organizational structure, and especially the revolving-door leadership in the Education Division, mean that most of their work is negated and undermined.

All of us complain of delays, redtape, officious bureaucrats, and excessive regulations. But under the present setup in HEW there is simply no way to make the education programs truly cost effective and politically accountable to the Congress and to the public at large.

This is the unanimous view of every Commissioner of Education and Assistant Secretary of Education who has ever served in HEW—Democrat and Republican alike.

As OBM Director Jim McIntyre and others have testified, solely from a management point of view, the present system is not working. We need to streamline education programs. We need to make certain that the legislative intent of Congress is clearly understood by every man and woman at the top of the new Department. Above all, we need to make certain that the persons placed in positions of responsibility in education at the Federal level give their full-time attention to making the programs work, instead of dividing their time among such admittedly urgent and pressing problems as welfare fraud and abuse, social security deficits, the needs of the elderly, and the plight of our health care system.

Education is the largest single industry in the United States. Fully a third of our Nation's people are involved in some form of study. Surely, that argues for full-time attention—not Federal domination or control—but full-time attention to the solution of the many educational problems which are laid at the doorstep of the Congress and of the executive branch.

H.R. 2444 will not in and of itself, and certainly not overnight, solve all of the problems of faulty administration of Federal education programs. But, I do believe that we must do better than we have been doing. I welcome H.R. 2444 as a new start designed to give all of us more confidence that Federal education dollars can truly make a difference in the lives of the young people we are trying to help.

I am satisfied that the Committee on Government Operations has written into the legislation adequate safeguards against Federal domination of the curriculum and that it has also clipped the wings of any would-be Federal bureaucrats who would use this new Department for grandiose empire building schemes. On the contrary, H.R. 2444 is a modest proposal, but one long overdue.

I hope this House will join me in support of this much-needed legislation.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

Stratton
Stump
Symms
Taylor
Thomas
Vanik

Walgren
Walker
Waxman
Weiss
Whittaker
Williams, Mont.

Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Zablocki

NOES—206

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead

Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton

Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nolan
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rostenkowski
Roybal
Runnels

Forsythe
Johnson, Calif.
Long, La.
Mavroules
Nichols
O'Brien

Royer
Stark
Stockman
Treen
Udall
Ullman

Vander Jagt
Weaver
Wilson, Bob
Wilson, Tex.

☐ 2350

Mrs. SMITH of Nebraska, and Messrs. TAUKE, RITTER, and HAMMERSCHMIDT changed their vote from "aye" to "no."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 266, not voting 22, as follows:

[Roll No. 239]

AYES—146

Abdnor
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Bennett
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Fenwick
Findley
Fountain
Frenzel
Gaydos
Gibbons
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Hyde
Ichord
Jeffries
Johnson, Colo.
Kastenmeier
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Lee
Lent
Livingston
Lloyd
Loeffler
Lott
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Marlenee
Mazzoli
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Nelson
Nowak
Obey
Ottinger
Paul
Peyser
Quayle
Regula
Rhodes
Robinson
Rosenthal
Roth
Rousselot
Rudd
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Snowe
Snyder
Solarz
Solomon
Stangeland
Stanton
Steed

Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Dicks
Diggs
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lewis
Long, Md.
Lowry
Lujan
Lundine
McCormack
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mica
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Russo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Spellman
Spence
St Germain
Stack
Staggers
Stenholm
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Van Deerlin
Vento
Volkmer
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Williams, Ohio
Wirth
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NOT VOTING—22

Bingham
Bolling
Conyers
Davis, S.C.
Derrick
Flood

in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 208 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by section 208 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of title 5, United States Code.

(e) Notwithstanding the transfer of functions effected by section 303 (and the consequent transfer of personnel), personnel performing such functions shall be treated, for purposes of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

Sec. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed

REORGANIZATION

Sec. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or offices vested by this Act in any organizational unit or component.

RULES

Sec. 424. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code, Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1) and (2), 302, 303, 304, 305, and 306 of this Act.

CONTRACTS

Sec. 425. Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

Sec. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or the daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

REDUCTION OF POSITIONS

SEC. 403. Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time permanent positions that perform functions to be transferred to the Department by this Act shall be reduced by 450 and thereafter the number of such positions shall not be increased by more than 50 in any one year except by law enacted after the date of enactment of this section.

EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION ON POSITIONS

SEC. 404. None of the limitations or computations required by section 403 shall be applicable to any individual employed pursuant to section 209 as a teacher, administrator, clerk, or secretary in an overseas school.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authormised to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432 (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous re-

total cost of those contracts and subcontracts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

SEC. 438 (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

ALTERNATIVE ADMINISTRATIVE STRUCTURES WAIVER

SEC. 439. Notwithstanding any other Fed-

tain a neutral position with regard to religion in public schools. Moreover, prayer in public schools is prohibited in the constitution of my own State of Wisconsin, as affirmed by a State Supreme Court decision in 1893.

To those who argue that there is no prescribed prayer in this amendment, no coercion, no Government interference, I would make a couple of points.

First, it is proclaimed as an official purpose of the Department of Education. That is a Government decree.

Second, to the extent that children must be in school and, presumably, must participate in silent prayer when the designated time is set, or not pray if that child so chooses, Government involvement is present under the amendment.

Any student, whenever he or she wishes, may voluntarily and silently pray at any time they so choose. The Court did not throw out the concept of an individual's right to pray. The Court simply said that we cannot have Government involvement.

Justice Clark, in writing for the majority in Murray against Curlett, Abington School District against Schempp, in 1968 clearly stated the prohibition of the first amendment against any government role in promoting religion. He said:

> The place of religion in our society is an exalted one achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the

ceipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practical cmfwyetaoincmfwyetacicmfwyetao practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions. Such report shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 425 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the eral law which provides that a single State or local government, department, agency, multimember board or commission, or other organizational unit, or specific officer within a department, agency, multimember board or commission of State or local government, must be established or designated to administer any grant-in-aid program of the Department, upon certification by the appropriate executive or legislative authority of the State or local government responsible for determining or revising the organizational structure of such government that such provisions prevent the establishment of the most effective and efficient organizational arrangements within the State or local government, the Secretary may waive such provisions and approve other State or local administrative structures or arrangements, when he determines that the objectives of the Federal statute authorizing the program will not be thereby endangered.

● Mr. **KASTENMEIER**. Mr. Chairman, although I support the notion of creation of a separate Department of Education, I regret that I cannot vote for this bill. It has been so amended in specific respects as to not only render parts of it constitutionally questionable, but also make it objectionable as a declaration of policy.

The school prayer amendment adopted yesterday, making it an official purpose of the department to permit daily opportunity for voluntary prayer or meditation in public elementary and secondary schools is, in my view, unconstitutional and has no place in this or any bill. The language clearly runs counter to the first amendment rights which we have traditionally upheld and counted on since the founding of this Nation.

The Supreme Court has consistently held that the Government must maintain power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the state is firmly committed to a position of neutrality.

Justice Clark went on to note that it is irrelevant that such practices may seem "relatively minor encroachments on the first amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent."

Mr. Chairman, this amendment clearly violates the neutrality the Court spoke of. Religion, if it is to have a place in an individual's life, must be promoted by the home, the church, and each individual's own desires. If these traditional sources cannot achieve the kind of religious awareness and commitment some are apparently seeking, it will not be obtained by finding someone else to do the job. It will not be obtained by turning that responsibility over to the schools.

Time and time again we have heard many of the same Members who support this amendment say on this floor that the Government has no right to interfere in matters which are the responsibility of the parents. Yet, this amendment runs directly counter to that claim. Further, I was under the impression that opponents of this bill are concerned that the Department will get involved in the decisions traditionally made on the local level, that the department will attempt to influence curricula choices. What, pray tell, do they think this amendment does except get the Federal Government involved in local decisionmaking? It simply has no place in this bill.

The school busing amendment is another to which I have the strongest objections. This amendment, which effectively prohibits the Secretary from requiring busing of students or teachers to carry out desegregation as a condition of eligibility for Federal assistance is another in a long line of efforts by certain Members of Congress to undo what have been great strides in the area of school desegregation.

While the courts have clearly indicated that busing should not be considered the only remedy for desegregation, they have indicated that busing must be considered a possible remedy. In the unanimous decision of the Supreme Court in Swan against Charlotte-Mecklenburg Board of Education back in 1970, Chief Justice Burger, writing for the Court, said the Court found "no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school."

Yet, by removing busing as a possible remedy, this amendment removes one of the most important symbols of the commitment of the Government to provide an equal education to all of our children.

It is regrettable that some have managed to so encumber this bill. Education does deserve the priority creation of a separate department would give it. But, we cannot begin to compromise basic principles in the process, at least I cannot.●

Mr. BROOKS. Mr. Chairman, I move

that the Committee do now rise.

☐ 2400

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Nedzi, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I ask unanimous consent to enter a personal explanation at this point in the Record.

Earlier today, I was inadvertently absent during rollcall No. 233, an amendment to move CETA training functions to the Department of Education. Had I been present, I would have voted "no" on that amendment.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, TUESDAY, JUNE 19, 1979 No. 81

House of Representatives

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 352, nays 53, not voting 29, as follows:

[Roll No. 258]

Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead.
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Treen
Trible
Udall

Conyers
Diggs
Duncan, Oreg.
Flood
Forsythe
Madigan
Mollohan
Murphy, N.Y.
Neal
Nichols
Stockman
Walgren
Winn
Wright

☐ 1600

So the motion was agreed to

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 13, 1979, title IV had been considered as having been read and open to amendment at any point.

Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer

YEAS—352

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin

Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carr

Carter
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski

Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro

Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Long, La.
Long, Md.
Lott
Lowry
Lujan

Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp

Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.

Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback

Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—53

Archer
Ashbrook
Badham
Bauman
Brown, Ohio
Campbell
Carney
Cheney
Collins, Tex.
Conable

Crane, Daniel
Crane, Philip
Daniel, R. W.
Devine
Dickinson
Dingell
Erlenborn
Gibbons
Goodling
Gradison

Hansen
Hinson
Holt
Jeffries
Kindness
Latta
Lee
Lewis
Livingston
Lloyd

Loeffler
Luken
Lungren
McClory
McDonald
McEwen
Mitchell, Md.
Myers, Ind.

Quayle
Ritter
Robinson
Roth
Rudd
Sensenbrenner
Shumway
Shuster

Stangeland
Stratton
Symms
Thomas
Walker
Wilson, Bob
Wilson, C. H.

NOT VOTING—29

Applegate
Bolling
Broyhill
Burgener
Cavanaugh

Giaimo
Guyer
Harsha
Ireland
Lundine

Oakar
Pepper
Rousselot
Schulze
Solomon

an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fascell: Page 91, beginning on line 1, strike out all of section 439 through line 18 and insert in lieu thereof the following new section and conform the table of contents accordingly:

TRANSITION PROVISION REGARDING ADMINISTRATIVE STRUCTURES

Sec. 439. The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

Mr. FASCELL. Mr. Chairman, I offer this amendment on behalf of myself and the distinguished chairman of the Subcommittee on Select Education of the Committee on Education and Labor, the gentleman from Illinois (Mr. Simon). The problem that was involved, which we attempted to reach in section 439, is one that has troubled the Congress and many States for quite some time, and that is the mandated Federal administrative structures of various Federal programs with which States must comply in order to receive Federal funds.

My colleagues will recall that in the Intergovernmental Cooperation Act, the Congress provided statutory waivers for most of those organizational requirements. But that statutory language was held in court not to be broad enough to cover the single organization unit.

Therefore, the present language in the bill, which this amendment seeks to amend would have broadened that definition to cover the single organizational unit. However, it raised a question in the minds of some people regarding certain programs. Thus some of you probably have gotten wires or letters with respect to the present language in the bill, because it might affect programs such as vocational rehabilitation and other programs where people were satisfied with the present mandated Federally administrative units.

Therefore, in order to eliminate that difficulty for some of us here, we decided that the thing to do would be to take the whole issue to the substantive committee, which is the Committee on Education and Labor. This pending amendment would provide sufficient time to seek that legislative remedy for those States that have the problem, and basically that is what this amendment does, Mr. Chairman. I have discussed it with the ranking member on this committee and with the chairman of this committee.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. HORTON. It is accurate to indicate that we have worked with the gentleman from Florida on this particular amendment, and it is agreeable and acceptable; and I think it does improve the bill, and I urge its adoption.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I want to say to my distinguished friend, the gentleman from Florida, who offers this

Mr. Chairman, I would like to yield now to the chairman of the full Committee on Education and Labor, if I may inquire of him. Can the chairman of the full committee assure the House that the waiver issue will receive full consideration and a vote by the full committee?

Mr. PERKINS. Let me assure the distinguished gentleman from Florida that the full committee will wholeheartedly cooperate with the gentleman from Illinois (Mr. Simon). We will see that the full committee has the opportunity to vote on the waiver, regardless of what action the subcommittee may take; that is, with the cooperation of Mr. Simon.

Mr. FASCELL. I thank the chairman very much. That gives those States interested a fair day, a legislative hearing on a troublesome subject and I am sure all of those States that are involved, particularly my own, are extremely grateful for the chairman's cooperation.

Mr. Chairman, the administration amendments to which the gentleman from Illinois (Mr. Simon) refers to in this colloquy are the subject matter of the following letter:

Office of Management and Budget,
Washington, D.C., July 11, 1979.
Hon. Dante B. Fascell,
House of Representatives,
Washington, D.C.

Dear Congressional Fascell: I greatly appreciate your interest in providing the flexibility of waiver authorization for State operation of Rehabilitation programs. The Administration has approved amendments to the Rehabilitation Act that would give the Secretary full authority to waive any re-

that the gentleman from Florida seeks to amend.

Mr. Chairman, in the committee the gentleman from Florida offered the language which is now in the bill. In effect, what it does is to amend the General Education Provisions Act. It is not language that should be in a reorganization bill. It is, as the gentleman has so aptly told us just now in offering his amendment to change the language, something within the purview of the Education and Labor Committee.

The Committee on Education and Labor, on which I also serve, saw fit some time ago relative to vocational rehabilitation to require that there be a certain structure within a State for the State to qualify for Federal aid. That structure was a single State agency for the administration of the funds made available by the Federal Government for this particular program. That is the law, and if the law is to be changed—and I think the gentleman now admits this by offering this amendment of his own—the Education and Labor Committee is the committee that has the jurisdiction to make that judgment.

What the gentleman is attempting to do, and I think he would agree with this characterization, is to buy time. He is going to say, through the amendment he is offering today, we are amending the general education provisions, but only for 8 months, and that will give the Education and Labor Committee time within which to hold their hearings and to make a judgment. But basically, this language amendment to solve this problem on the floor of the committee. I support it.

It created some problems for the members of the Education Committee, and primarily our distinguished able whip. The gentlemen have worked out a compromise acceptable to both committees. I see no objection to it.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

□ 1610

Mr. SIMON. I thank the gentleman from Florida for yielding. I would like to commend him as well as compliment my colleague from Indiana (Mr. BRADEMAS) for their help in getting this work out.

Mr. FASCELL. Mr. Chairman, will the gentleman allow me to ask him a question? Am I correct in understanding that the gentleman intends to hold hearings in his subcommittee to fully air and discuss the problem addressed by section 439 in this bill?

Mr. SIMON. That is, indeed, my intention. As you know, the administration is in the final stages of preparing a series of amendments to the rehabilitation measure we passed last year. I understand that one of those amendments would deal directly and specifically with the problem the gentleman's State has had in implementing its integrated services delivery system. I assure the gentleman that the waiver issue will receive full consideration.

Mr. FASCELL. I thank the gentleman for his cooperation, courtesy, and that assurance.

quirement that a single organization unit be designated to operate the program, as well as to approve any alternative State and local arrangement if the objective of the Federal statute would be met. We will forward our proposal to you this week, and the amendment will be submitted to the Congress within three weeks. We look forward to early hearings and prompt action in the Education and Labor Committee.

It is a pleasure to work together with you on this important issue.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

AMENDMENT OFFERED BY MR. ERLENBORN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FASCELL

Mr. ERLENBORN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN as a substitute for the amendment offered by Mr. FASCELL: On page 91, strike out lines 1 through 18, inclusive.

On page 53, in the table of contents, strike out—

"Sec. 439. Alternative administrative structures waiver."

Mr. BROOKS. Mr. Chairman, I reserve a point of order against the substitute amendment since I have not read it.

The CHAIRMAN. The gentleman reserves a point of order against the substitute amendment.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, the substitute amendment is very simple. It would just strike the section of the bill should never have been in this bill. It is not within the jurisdiction of the Government Operations Committee. The amendment I am offering would put the bill in the shape that it should be, and that is to make no reference whatsoever to the single State agency issue relative to this educational program. Then the Education and Labor Committee that has, through the chairman of the subcommittee and the chairman of the full committee, promised to address itself to this issue, can or cannot, as they see fit, make amendments to the basic law. But that is within the jurisdiction of the Education and Labor Committee, and even for this 8-month period the Government Operations Committee should not be invading the jurisdiction of another committee.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield.

Mr. FASCELL. I do not want to argue with the gentleman. I just want to set the record straight. I do not agree with the gentleman at all. As far as the Intergovernmental Cooperation Act is concerned, it is totally within the purview of the Government Operations Committee. That is where the act came from; that is, the act which is amended and obviously Education and Labor does have jurisdiction over the substantive legislation. So we are simply doing our best to resolve a problem. I do not agree with the gentleman on that, and frankly, when we raised this in the subcommittee the gentleman asked that question. I am sorry that at this late moment he has decided to do what he has done, but that is his prerogative.

Mr. ERLENBORN. In answer to the gentleman, I do not think he should be at all surprised. I resisted the gentleman's amendment in committee. I called for a vote on it. I voted against the amendment, and what I am doing today is totally consistent with the position I have taken.

Mr. FASCELL. Mr. Chairman, will the gentleman yield further?

Mr. ERLENBORN. I will be happy to yield.

Mr. FASCELL. I want to refresh the gentleman's memory. There was not a vote on the amendment in the committee.

Mr. ERLENBORN. I think there was a vote. There was a voice vote.

Mr. FASCELL. Maybe the gentleman did vote no. I did not hear him.

Mr. ERLENBORN. I did indeed vote "no."

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. BROOKS. That I do, Mr. Chairman.

I would say a motion to strike is not a suitable substitute for a motion to strike and insert a substitute section as offered by Mr. FASCELL. It amounts to a motion to divide an amendment to strike an insert which is not in order under the rules.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. ERLENBORN. Yes, Mr. Chairman.

nection with this issue but because, as sponsor of the Rehabilitation Services Amendments, I have found that my name has been mentioned on the issue. Let me, however, only indicate at least some of the evidence for the position that I have taken. I cite this evidence through inserting at this point in the RECORD an article, "HRS Mismanages Aid for the Disabled," by David Cook, associate editor of the Tallahassee Democrat in the June 1, 1979, issue of that newspaper. Mr. Cook's article effectively sums up some of my concerns.

Again, Mr. Chairman, I express my thanks to Mr. FASCELL and Mr. SIMON.

The article to which I refer follows:

HRS MISMANAGES AID FOR THE DISABLED

(By David Cook)

A new federal audit shows Florida hasn't done a very good job of administering the vocational rehabilitation program through its regional system of delivering social services.

In fact, the state has done such a lousy job that it may be required to replace as much as $2.2 million in federal vocational rehabilitation funds. The audit said the money was misspent on other services.

Conducted by the Office of Inspector General of the U.S. Department of Health, Education and Welfare, the audit discloses a number of problems involving the management of VR money and services to the handicapped.

Auditors found the accounting system used by the Department of Health and Rehabilitative Services during the 1977 and 1978 fiscal years was so bad that VR funds couldn't be readily identified.

Money became so short in some districts that the federal law should be change so Florida can provide VR services through its one-stop system. They claim this is a better way to serve the disabled.

Findings of the federal auditors don't uphold this claim. If the audit figures are correct Florida's handicapped people were a lot better off before the Legislature shifted HRS to a regional system.

Figures show that the total number of people rehabilitated through the VR program declined 52 percent from the peak year of 1973 to 1977. The number of new cases referred to VR also declined significantly.

Florida is doing little better in 1979 than it was in 1968—even though the state's population has grown tremendously.

The auditors said that during the period when the number of people being helped was going down steadily, the cost of rehabilitations increased 135 percent.

HRS officials said the figures are not accurate and predicted that the final audit report will be substantially different.

The federal auditors recommend a complete evaluation of the VR program to identify the basic causes of continued decreases in program effectiveness. They suggest that Florida develop a plan to overcome the causes, whatever they may be.

Auditors didn't have to look far to determine some of the causes for the decline in service. A VR supervisor told them he devoted about 40 percent of his time to other activities during a three-year period. He said he was assigned to work in aging and adult services.

A VR secretary told them she devoted from half to three-quarters of her time working on retardation and aging programs.

The Federal audit makes it clear that vocational rehabilitation people are being diverted to other services, and the handicapped are suffering because of it.

man. I really do not follow the logic of the gentleman from Texas. But I have offered an amendment to strike the entire section that the gentleman from Florida would strike in substitute. I think a motion to strike is always in order.

The CHAIRMAN. The Chair is prepared to rule.

Under Cannon's Precedents, the House of Representatives, page 15, to a motion to strike out certain words and insert others, a simple motion to strike out the words may not be offered as a substitute, Cannon's Precedent, Volume VIII, sections 2847–2851; 2854.

The Chair will state the amendment offered as a substitute by the gentleman from Illinois (Mr. Erlenborn) is not a proper substitute. The point of order is sustained.

If the Fascell amendment is adopted, the amendment, as a motion to strike that language, is not then in order.

● Mr. BRADEMAS. Mr. Chairman, I take this opportunity to commend both the gentleman from Florida (Mr. Fascell) author of the amendment under consideration, and the gentleman from Illinois (Mr. Simon), chairman of the Select Education Subcommittee of the Committee on Education and Labor, the subcommittee with jurisdiction over the vocational rehabilitation program.

I was pleased to work with both Mr. Fascell and Mr. Simon to develop an accommodation on an issue arising out of the administration by the State of Florida of Federal vocational rehabilitation grants.

Mr. Chairman, I shall not take time here to review the specific facts in contention... during 1978, the auditors said, that services to the handicapped had to be suspended, although other districts maintained large balances over and above their needs.

Because of the apparent lack of money, HRS instructed some districts to suspend services to 4,154 disabled individuals. At the time, HRS actually had $3.2 million on hand to continue these services.

A number of revisions and refinements of the HRS budgetary and management system are being recommended by the federal auditors to improve financial accountability.

HRS officials say they already have made the changes in financial accounting in order to keep track of the money. They claim, in fact, that most financial problems uncovered by the audit already have been corrected.

It may be true that HRS has waved a magic wand and somehow erased its budgetary problems. The next review by the state auditor will tell us.

My observation is that most of the financial problems uncovered by the federal auditors already have been reported by the state auditor's office in a series of scathing reports that detailed mismanagement and inept handling of money.

The difference is that state auditors looked at the overall HRS operation, while the federal people narrowed their scope to the vocational rehabilitation program.

HRS officials haven't completed their review of the federal audit. They will get a chance to argue with the findings before the audit is published.

It is going to be difficult for them to explain the sharp decline in the number of handicapped people being served through the state's district HRS system.

You may remember that federal officials and the courts have said the administration of vocational rehabilitation through a district system is unlawful. Federal law requires a central office with authority over personnel and budget.

Gov. Graham and other state officials argue

There is evidence that considerable amounts of VR money also are being diverted—or were diverted during the audit period.

Checking one district, the auditors found that thousands of dollars worth of office furniture, business machines and equipment could not be located. It was bought with VR money but could not be found in any VR offices.

HRS officials may see nothing wrong with that, but it is in violation of federal rules for spending federal money, money which makes the program possible.

Now Florida may have to pay a lot of that money back. If it does, the handicapped will suffer even more from neglect and lack of services, because there will be a couple of million dollars less to meet their needs and help them become productive citizens.

It's no wonder so many handicapped people and the vocational rehabilitation counselors have been pushing to get the program out of HRS and back into the Department of Education where it was located for many years. If the federal auditors are reasonably correct, HRS has turned the program into a shambles.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fascell).

The question was taken; and on a division (demanded by Mr. Erlenborn), there were—ayes 25; noes 13.

☐ 1620

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. BROOKS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROOKS. Mr. Chairman, if the gentleman from Illinois would change his request and ask for a recorded vote, and if we could get a recorded vote, would that then relieve the Chair of the necessity of calling for a quorum?

The CHAIRMAN. The Chair will inform the gentleman from Texas that the request comes too late.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 259]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wydler
Wylie
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Holtzman
Horton
Howard
Hubbard
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Perkins
Petri
Peyser
Pickle
Preyer

Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1630

The CHAIRMAN. Three hundred eighty-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FASCELL. Is the vote now on the Fascell amendment?

The CHAIRMAN. The demand is for a recorded vote on the Fascell amendment.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that 5 minutes will be allowed in which to vote.

The vote was taken by electronic device, and there were—ayes 362, noes 36, not voting 36, as follows:

[Roll No. 260]

AYES—362

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stokes

Studds
Stump
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—39

Archer
Badham
Cheney
Cleveland
Crane, Daniel
Crane, Philip
Dickinson
Edwards, Okla.
Erlenborn
Goodling
Green
Holland
Hopkins
Hyde
Ichord
Jeffries
Lewis
McDonald
Madigan
Miller, Ohio
Myers, Ind.
O'Brien
Quayle
Ritter
Roth
Rudd
Satterfield
Snyder
Solomon
Stangeland
Stratton
Symms
Taylor
Walker
Wilson, Bob
Wydler

NOT VOTING—36

Alexander
Anderson, Ill.
Atkinson
Boland
Bolling
Broyhill
Burgener
Conyers
Davis, S.C.
Diggs
Edgar
Flood
Foley
Forsythe
Gephardt
Giaimo
Guyer
Harsha
Hollenbeck
Ireland
Lent
Mollohan
Neal
Ottinger
Pease
Pepper
Rahall
Roberts
Rousselot
Runnels
Schulze
Stockman
Vanik
Volkmer
Walgren
Wright

☐ 1640

So the amendment was agreed to.

The results of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEVITAS

and we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. MARKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have debated, if you want to use that word, the education bill for 23-plus hours.

☐ 1650

Mr. Chairman, if anyone was under the illusion that a few who were opposed to a piece of legislation could extend and extend and extend the debate on a bill to frustrate the majority, this bill should prove otherwise.

We have every quorum call imaginable that has taken place. We have had unreasonable, as well as reasonable amendments. We have had every delaying tactic that could be determined in the cloakroom or otherwise put together by a small group who are opposed to the bill.

May I suggest that the other night after many, many hours of debate and when it was thought that most people would be so tired they would do anything just to get home, the gentleman from Wisconsin (Mr. OBEY) who professes to be a friend of education, although opposed to this bill, got up in front of this House and tried to eliminate the bill completely.

As we can remember that vote, it was a substantial vote against what the gentleman wanted to do.

Mr. BROOKS. Mr. Chairman, the language of section 436 that says that this authorization is subject to any limitation applicable with respect to any function transferred to the department, was added to the bill to negate any inference that this section authorizes any funds for programs so transferred.

Now, the section is designed to authorize only those additional appropriations which are necessary to establish and operate the department. Funds provided to public and private entities under the programs of the department are not authorized by this section, but by legislation subject to the jurisdiction of other committees and not now before the House.

An amendment to limit or constrain the use of those funds is, therefore, not germane to this bill.

The CHAIRMAN. Does the gentleman from California (Mr. DORNAN) desire to be heard on the point of order?

Mr. DORNAN. Yes, Mr. Chairman.

Mr. Chairman, I may be supporting the bill. I do not think this is a frivolous amendment. I believe it is germane.

So as not to waste the time of this body or of this committee, I asked the parliamentarian last week to take an initial look at this. He said that it might take some further study, but that it looked germane at first view.

What it attempts to do, if it appears slightly redundant, is to make sure that the Department of Education is not crippled by the burden of reverse dis-

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 82, beginning on line 8, strike out "sections 301(a)(1) and (2)" and insert in lieu thereof "sections 301(a)(1), (2), and (4)".

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment is basically a technical amendment. Section 424 of the bill is the section that contains the congressional or legislative veto provision which gives the Congress the right to consider the rules and regulations issued by the Department of Education and if we so choose to veto those regulations.

The reason this amendment is needed is that during the course of the markup of the bill the vocational rehabilitation program was put into the legislation. The veto provision did not cover that at the time and the purpose of this amendment is to make certain all rules and regulations issued by the Department will be subject to a legislative veto.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, the gentleman states the position accurately.

My remarks now are merely to tell those who would continue to keep this House in session and prevent it from getting on with the Nation's business, the appropriations bills that must be taken care of, the Panama Canal debate that must come forward and all the other major pieces of legislation, that you cannot and will not frustrate those of us who are going to see that there is a vote on this bill and that this bill will pass.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF PERSONNEL FUNDS TO FORCE RACIAL/ETHNIC QUOTA BUSING

SEC. 437. No funds appropriated under the authorization contained in section 436 may be used to assign Department of Education personnel to promote or to provide for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

POINT OF ORDER

Mr. BROOKS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

crimination dealing with quotas, busing or teacher transfers. The teacher transfer problem is one to which my own brother has been subjected after teaching in a Los Angeles school system for 12 years.

I will accept whatever ruling the Chair issues to this, since they have already had a chance to take a look at it once.

I just simply state that it is germane in more than one section and not legislating in an appropriations bill, to point out areas in which money cannot be spent and to allocate any personnel to carry out someone else's school plan or to have a brand new department of education suffering under the burden of coming up with their own, I think would get the new department off to a bad footing for this or what I expect to be a whole new administration starting on January 20 of 1981.

I wait the Chair's decisions.

The CHAIRMAN. The Chair is prepared to rule.

The Chair recognizes that amendments are ordinarily germane which limit the uses to which an authorization of appropriations or an appropriation for an existing program may be put; however, the Chair knows of no precedent applying that principle to a bill which is only organizational in nature. Ordinarily, bills authorizing or making appropriations to carry out existing statutes emerge from the committees which have reported such statutes and which during the authorization and appropriation process have exercised oversight over the manner in which those programs are and should be carried out; but the fundamental issue involved with the pending bill is not whether those programs should be carried out as it is with annual authorizations or appropriations, but who should administer them.

Mr. DORNAN. Mr. Chairman, could we have order? I am trying to follow this, since the Chair has said it establishes a precedent.

The CHAIRMAN. The gentleman from California desires order and that he may hear the ruling of the Chair.

The Chair shall continue.

To allow as germane the amendment proposed by the gentleman from California would be to impinge upon the jurisdiction of the committees responsible for overseeing and authorizing the administration of the laws transferred by the pending legislation, and would broaden its scope beyond an organizational bill to one also modifying and limiting the programs proposed to be transferred intact to the new department.

The Chair believes that it is important to understand the impact which section 436 has upon the bill.

In this regard, the Chair will focus upon the first clause in that section, which on its face renders the authorization for appropriations subject to any limitations on appropriations applicable with respect to any function transferred to the department or secretary. Since the basic purpose of this bill is to create a new departmental entity to carry out existing educational programs and policies, it is reasonable to infer that the pressed by the gentleman from California. This, indeed, is a landmark decision by the Chair with respect to the jurisdiction of authorizing committees as they might or might not be affected by a reorganization bill.

I think many of us will note with greater interest the decision of the Chair, especially where we have legislative jurisdiction in the authorizing committees on matters that could be affected.

Had the Chair ruled otherwise, it would have created chaos on reorganization bills coming through the Congress and it would have made it possible either in committee or on the floor to wipe out whole areas of substantive legislation never having been considered by the committee of original jurisdiction.

☐ 1700

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 82, strike out lines 1 through 9, inclusive, and insert in their place the following:

"(b) Except to the extent inconsistent with subsection (c)—

"(1) the Secretary, in promulgating rules and regulations as authorised by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code; and

"(2) section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promul-

But if we look carefully at the language that is in the bill, one of the disturbing things about it is that it refers only to law. It does not talk about the way local governments have been undermined previously by education programs through the entire regulatory process, and what we have in schools today is Federal control primarily, not as a result of laws passed in this body or passed in the Congress as a whole, but as a result of regulation.

What I am attempting to address in this particular amendment is the assurance that local control of schools really will continue by assuring that regulations adopted by this particular Department can be commented on, and if a majority of local school districts agree that the regulations are not in the best interest of the schools, they can have those regulations withdrawn. That is the purpose of this particular amendment.

Why is the amendment important? Well, if the Members have listened—and many of them have listened, I am sure, much longer than they wanted to—to the debate on this bill, it has given them some perspective as to the number of important issues that could be addressed by this Department. Issue after issue, subject matter after subject matter can be addressed by this Department that is being created.

Mr. Chairman, if this Department has the power to regulate in all those areas, then it becomes rather scary to think that local school districts will have to comply with those regulations. The one thrust of section 436 is merely to assure under the rules of the House that appropriations both for substantive educational programs and for administrative expenses of the new department as an organizational entity will continue to be considered as authorized by and subject to provisions of existing law.

Thus, amendments to section 436 which attempt to restrict the availability of funds authorized therein in ways which are not addressed by existing law, such as the denial of funds to pay salaries and expenses to persons who promulgate regulations relating to some newly stated aspect of educational policy, are beyond the scope of title IV. Title IV establishes an administrative structure within the new department to carry out presently enacted educational programs and policies. Such a title should not, in [illegible] organizational bill, be open to amendments which redirect the administration of educational programs in ways not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to thank the Chair for a very thoughtful decision. It is not often a Member gets to establish a precedent with such a seemingly simple amendment, and I thank the Chair for the effort that went into the decision.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to add my commendation to the Chair to that extent with respect to programs transferred under sections 301(a)(1), (2), and (4), 302, 303, 305, and 306 of this Act.

"(c) In promulgating such rules and regulations, except for rules and regulations to ensure compliance with civil rights laws within the jurisdiction of the Assistant Secretary for Civil Rights, the Secretary shall—

"(1) make all reasonable effort to alert the appropriate officials of the Local Education Authorities as to the purpose and content of a proposed rule or regulation; and

"(2) withdraw such rule or regulation if a majority of Local Education Authorities notify the Secretary in writing of their disapproval within thirty (30) days of the publication of the proposed rule or regulation in the Federal Register."

(Mr. WALKER asked and was given permission to revise and extend his remarks.)

Mr. WALKER. Mr. Chairman, in the course of the debate on this bill one of the themes that has been repeated over and over again by the proponents of the legislation is that this Department will in no way impinge on the abilities of local school districts to run their districts in their own way. They have pointed again and again to a section in the first part of this legislation which they say limits Federal control and insures that Federal control will not be a part of the operations of this Department.

I think that we need to look at that section and congratulate the members on the committee who were responsible for putting that language in the bill. It is very important that we try to insure from the outset that in no way is local control of schools undermined by whatever we do with regard to the Department of Education.

way we can insure that what is best for local education takes place is to say that whenever local school districts receive notification, timely notification, of the proposed regulations, they could within 30 days comment on the regulations, get hold of the Department, and say to the Department that they do not agree with those regulations. If a majority of school districts across the country would do that, the regulations would be withdrawn.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, when the gentleman says a majority of the school districts across the country would do this, does that mean a majority of the school districts can answer and give their opinions on the rulemaking? I ask that because there are thousands and thousands of school districts.

Does the gentleman say that this applies to 51 percent of all school districts in the Nation?

Mr. WALKER. Mr. Chairman, the intent would be that it would be a majority of all the school districts. We are talking about 18,000 school districts across the country.

Mr. GLICKMAN. Mr. Chairman, the only thing I can say to the gentleman is that, although, as the gentleman knows, he and I share the same views on final passage of this bill, I personally think this amendment would wreak havoc on the education industry in this country. I really think it reflects upon the fact that there needs to be some degree of certainty, and while I do not object to a legislative veto provision in the bill, I think this is a veto which would cause chaos.

Mr. Chairman, I would urge opposition to the amendment.

Mr. WALKER. Mr. Chairman, I would say to the gentleman that I think his point can be understood. However, I would also say to the gentleman that what this says is that this probably predisposes against local school districts really doing very much about regulations except those which are particularly onerous. Those are the only ones on which we are going to get a vast majority of school districts that will oppose regulations in any way that would cause the regulations not to go into effect. But it does give them that final say.

I think the gentleman, who, as I know, is very familiar with the workings of rules and regulations in school districts, having been, I believe, a member of a board of education, would agree with me that it is the regulations that have come out of the Office of Education that have wreaked havoc in school districts up to now. That has been the problem in many local schools.

This is the amendment to allow local school districts to do something about those regulations and allow them to have a say along the way in the process. If we go to a legislative veto, fine, we get our say here, but it is the local school districts that are being devastated by the regulations and will continue to be devastated.

like to make the point that this requires the Secretary to make reasonable effort to alert the appropriate officials of the local education authorities as to the purpose and content of a proposed rule or regulation.

The gentleman from Pennsylvania (Mr. Walker) also indicated this would only occur in unusual rules or regulations, but this is a requirement that they be informed of all proposed rules or regulations, and what we are trying to do is cut down on paperwork. I can imagine the amount of paperwork that would be necessary to inform all the school boards throughout the country of every rule or regulation and then to require withdrawal and give the local boards of education the right of revocation of these rules. That, it seems to me, is going far beyond the scope of what we ought to be doing.

So I certainly would agree with the gentleman from Texas (Mr. Brooks) that we ought to oppose this amendment. I do not think it adds anything to the bill, and I certainly think it is something we could summarily do away with. I do not think we ought to even consider having local boards of education have the right of revocation of rules and regulations as promulgated by the department.

Mr. BROOKS. Mr. Chairman, I appreciate the gentleman's suggestion, and I certainly would oppose the amendment.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ERLENBORN asked and was

ability to administer programs at the State level, in violation of what Congress had done before. Was not that what the gentleman's understanding was of what we just did here?

Mr. ERLENBORN. I would say to the gentleman that we were, in the Fascell amendment, allowing States, at their option, to ignore the law, which is going a good deal further than what the gentleman is suggesting. The gentleman is suggesting that they have the veto power over rules and regulations. But the Fascell amendment vitiates laws which are on the books today on vocational rehabilitation, and that probably is more radical than what the gentleman is suggesting.

Mr. WALKER. If the gentleman will yield further, I thank the gentleman for that clarification, because I think that what we are doing here is simply an extension of a philosophy that we have already adopted in this bill, that we should reach out to a multinumber of people. All we are saying here is that local school districts should be allowed to take a look at those regulations and do something about it if they find the regulations are onerous.

I would say to the gentleman that I do not see that as any different than the philosophy that we have accepted here.

Mr. ERLENBORN. I would suggest to the gentleman that, in the event that the gentleman's amendment is not adopted, I would recommend that he offer another amendment giving that

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

Mr. WALKER. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HORTON. Mr. Chairman, reserving the right to object, I would just like to inform the gentleman that we have been very lenient in these amendments.

Mr. FITHIAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the proposal, and I oppose the amendment.

First of all, the idea of a school board veto system that permits local recipients of Federal funding to reject Federal rules is unprecedented and demands a great deal more consideration than we are going to give it in the next 5 minutes.

Second, the system that is proposed under this amendment is vague, it is cumbersome, and I think it is unworkable. We make adequate provision in H.R. 2444 for the input of local education authorities in the operation of the department. I do not think we should encumber the new department with a system like this.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I certainly agree with the gentleman from Texas (Mr. BROOKS), and I would also given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I have moved to strike the requisite number of words because I have worked very closely with the gentleman from Pennsylvania (Mr. WALKER). He and I agree on most things, and I agree with the basic thrust of the amendment that he has offered, that being really to make the sponsors of this bill honest in their continual promises to us that local control of education will not be adversely affected by the passage of this legislation.

And yet I can see the cumbersome nature of the notification of the 18,000 local education authorities, the difficulties in communication, and the difficulties in determining whether a majority of these agencies or authorities have written to the Secretary. Then I can see the difficulty in verifying whether they have the authority, with the local school board having met and adopted a resolution, and so forth. So it would be difficult in administration.

□-1710

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think that maybe we have just addressed that particular issue, though, in a vote just previous to this. If I understood correctly what we were doing in the Fascell amendment that this House just adopted overwhelmingly, it was precisely the same thing. We were giving local or multiunit agencies the veto power to State education agencies. They are defined in the current law. There are 50 plus, because the District of Columbia, Puerto Rico, American Samoa, and so forth, also qualify; but it would be a very manageable number, something in the neighborhood of 55. The paperwork would not be a problem. Identifying whether a majority has notified the Secretary would not be a problem. Since the opposition, so far, to the thrust of the gentleman's amendment is the fact that it is cumbersome, awkward, I think by giving this authority to State education agencies you would overcome the objections of the managers of the bill, and they might even join with the gentleman in asking for the adoption of that amendment.

Mr. WALKER. If the gentleman will yield further, I thank the gentleman for that suggestion, and I certainly think it is something that I would want to consider. However, I am predisposed toward local education, and supposedly this bill speaks to local education. I would hope that maybe the House would do what we have said throughout this debate we are going to do, and that is retain authority to run education at local levels. The best way to do it is through this kind of local control amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, our colleague, the gentleman from Pennsylvania, has offered a very worthwhile amendment. I am like my colleague from Illinois. I am not sure that I approve of it, in light of a paperwork amendment I will be offering in a few moments. But a few moments ago, the gentleman from Pennsylvania was not allowed extra time; I know he had a few things he wanted to add, and for that purpose I will yield to my colleague, the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think that there is one point that we should look at with regard to this amendment, too; and that is that this is not an original amendment in this House. It was considered by the other body when they considered this bill. The vote in the other body on this bill was 48 to 40, indicating that there was a substantial feeling in the other body that in fact this kind of an approach would be an acceptable one. I would certainly hope that as we go into this particular vote we recognize that here rests the real opportunity to control local education.

I thank my colleague for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 243, answered "present" 1, not voting 31, as

Treen
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitten
Williams, Ohio
Winn
Wolff
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.

NOES—243

Addabbo
Akaka
Albosta
Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Coelho
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon

☐ 1730

The Clerk announced the following pairs:

On this vote:

Mr. Archer for, with Mr. Pepper against.
Mr. Burgener for, with Mr. Rahall against.
Mr. Guyer for, with Mr. Conyers against.
Mr. Kemp for, with Mr. Mollohan against.
Mr. Rousselot for, with Mr. Minish against.
Mr. Schulze for, with Mr. Boland against.

Mr. BRINKLEY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. SANTINI. Mr. Chairman, I rise in support of the concept contained in Representative SIMON's proposed amendment to delete section 439 of H.R. 2444, the Department of Education Organization Act. I did support the Fascell amendment passed earlier today.

There now exist many laws which aim to aid handicapped individuals to become self-sufficient, productive members of our society. Congress has appropriated funds to implement these laws and make this self-sufficiency a reality.

However, the delivery of these services has—at times—been deficient and inadequate, due to the lack of facilities, trained personnel, and conscientious implementation.

When I support an appropriations bill, I want to be confident that these funds are indeed fulfilling their intended purpose. Section 439 endangers some very worthwhile programs, in particular those related to vocational education

1494

1501

follows:

[Roll No. 261]

AYES—159

Abdnor
Ambro
Anderson, Calif.
Andrews, N. Dak.
Applegate
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Brinkley
Broomfield
Brown, Ohio
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Collins, Tex.
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ind.
Ferraro
Gaydos
Gingrich
Goldwater
Goodling
Gramm
Grassley
Grisham
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Marlenee
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Nichols
Pashayan
Paul
Pritchard
Quayle
Rinaldo
Ritter
Robinson
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolpe
Wylie
Yates
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Erlenborn

NOT VOTING—31

Archer
Boland
Bolling
Broyhill
Burgener
Conyers
Davis, S.C.
Diggs
Edgar
Flood
Ford, Tenn.
Forsythe
Giaimo
Guyer
Harsha
Ireland
Kemp
McCloskey
Minish
Mollohan
Neal
Pepper
Rahall
Roberts
Rousselot
Schulze
Stack
Vanik
Walgren
Wilson, C. H.
Wright

and vocational rehabilitation, because it threatens their individual identities, and thus their funding.

In these days of fiscal austerity, many worthwhile programs are competing for the Federal dollar. Programs designed to help the handicapped are easy prey for irrational and inequitable financial assualts. The handicapped have made significant strides in obtaining equal access to employment and educational opportunities. We must not threaten the structures and programs through which the handicapped have made these gains.

Thank you.●

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. NEDZI, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education; and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks, and to include extraneous matter on the bill, H.R. 2444, and the Fascell amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, WEDNESDAY, JULY 11, 1979 No. 92

House of Representatives

1496

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

1503

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. Nedzi in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 19, 1979, title IV had been considered as having been read and open for amendment at any point.

Are there any further amendments to title IV?

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brooks: Page 82, line 11, insert "(a)" immediately after "Sec. 425." and after line 20 insert the following new subsection:

"(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to the extent provided in advance by appropriation Acts."

☐ 1040

Mr. BROOKS. Mr. Chairman, this amendment corrects a conflict between H.R. 2444 and the Congressional Budget Act. Section 401(a) provides that it shall not be in order to consider any bill which provides new contract authority unless that bill also provides that such new contract authority is to be effective for any fiscal year only as provided in advance in appropriation acts.

The addition of this amendment will cure this Budget Act problem.

We have resolved that with the minority, and we have had no objection to it in the committee at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUAYLE: Page 80, line 12, strike "450" and insert "800" strike out lines 13 and 14, and insert the following: "increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section.".

Mr. QUAYLE. Mr. Chairman, during the rather lengthy debate on this Department of Education, one of the arguments that we have heard in favor of the Department of Education has been that this is in reality a reorganization. All of the education agencies, and with the reorganization have been proffered that there will be a reduction in the number of personnel that are now included in education-related activities.

I do not really have an exact figure on the Federal Government. We have to have accountability. This amendment is in that direction, and I think that it would be prudent and in commonsense to adopt this rather perfecting amendment that is going to restrict the growth of the new Department of Education, which everybody is for, whether we are for the bill or against the bill.

If we are going to reorganize, we ought to have a reduction or at least a cap on the number of employees.

I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment offered by the distinguished gentleman from Indiana (Mr. QUAYLE). This mandated number of 800 people, first, is pennywise and pound foolish. We mandated a cut of 450, but this kind of amendment would endanger the effective and efficient operation of the department just as they are getting started. It might jeopardize the important functions such as the Office of Inspector General.

I would say that, in addition, this amendment's provisions on consultants, the way it is worded, means that a consultant hired to work for 5 hours a week would count as a full-time employee, and this would inhibit the utilization of consultants, because we would have to count off a full employee if we employed them.

The purpose of having consultants is to have temporary people who are of special expertise which we do not have to put on the payroll forever. So I would hope that we would not support this my opposition to the amendment and point out that the amendment basically does three things.

One, it changes the number from 450 that we have used in the bill, which is the number of reductions that the Office of Management and Budget states can reasonably be expected as a result of this reorganization.

In testimony before the subcommittee, the Director of OMB pointed out that as a result of moving the Office of Education from HEW, that it would be possible to reduce the number of overhead positions by 450. In other words, by taking the Office of Education out of HEW and creating a new Department, we could eliminate 450 positions. So that figure was adopted by an amendment as the number that the new agency would be reduced by.

Now, in addition, some members of the full committee felt that there ought to be some growth permitted without having to come back to Congress, because this is an unusual prohibition on a new department; that is, that they have to remain at the number that they have now less 450. No other department that I know of has that type of limitation in its charter. But we felt it was important to have it here in the Department of Education. So we put this in purposely to keep the Department from growing. We have reduced it by 450.

Some members of the full committee felt that there ought to be some allowable growth each year, and so they adopted the figure of 50. This amend-what the new Department that we have now created is going to entail. There is uncertainty as to what is going to be in and what is out. At one time it was around 24,000. With the Bureau of Indian Affairs out, it is below that, but whatever figure, it is going to be in the bill.

There is included overhead employees of 900. We now reduce that to 450.

It is interesting to note that the committee report says on these overhead employees and overhead personnel needed to carry out all of the functions of the new Department of Education, that we only need 100.

So what my amendment does is to strike 450 and to put in 100, which is the amount that is recommended in the committee report. Also, we are going to strike the language in the bill that allows for 50 additional employees that would be allowed each year. If we are serious about getting a cap on the number of personnel, not only in the Department of Education, but the entire Federal Government, we must limit the number of employees. If we need to have more people, we can come back to the Congress and raise that.

Also, this bill does another thing. When we hire our outside consultants, which the bill rather freely provides, these people ought to be counted as full-time employees. The National Journal in a recent article said consultants constitute about 8 million workers, 4 for every 1 person directly on the Federal Government payroll.

We need to get a handle on the number of people who we have working for

amendment. I would ask for a "no" vote.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Indiana.

Mr. QUAYLE. I ask my distinguished chairman and friend, why is it that the committee report only suggested an overhead of 100, and the committee did not adopt that language? In the committee report it says 100 overhead personnel would be sufficient. That is what this amendment is going to do.

I was wondering what reason we had to increase it from 100 to 900. I think the full committee reduced it to 450. Was the committee report just erroneous in this area of the overhead?

Mr. BROOKS. Certainly not, but this is overhead. This is just overhead only. This would be departmentwide.

The gentleman would also include in his language the elimination of a possible increase of 50 percent per year as a maximum, which I thought was a pretty reasonable increase. It is not unwarranted, I do not believe, in an agency of this size.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to ask the gentleman who sponsored the amendment to document this figure that he uses, the figure 800. Moreover, he has also indicated that the report contains the figure 100. I am not able to put my finger on that immediately. I wondered what part of the report that is located in.

I would like to have the gentleman respond to that and I would like to indicate

ment would take that flexible item out of this particular section.

☐ 1050

In addition, the amendment also provides that consultants and experts who would be hired under section 402, shall count as full-time, permanent positions. I oppose that also because I do not think we ought to put that type of a restriction on this new Department.

Overall this is a very bad amendment. What we have tried to do with the bill is to put a limit on the number of employees this new agency can have. We have reduced the present number by 450 and said the agency can grow by 50 each year without having to come back to the Congress, but after that they must come back to Congress to get specific authorization for any increase. That in and of itself is an innovative prohibition as far as this new Department is concerned.

So I would urge that the amendment be defeated.

Now I would like to yield to the gentleman and let him reply to the figure that he has quoted.

Mr. QUAYLE. I can assure the gentleman that the figure of 100 is in the committee report.

Mr. HORTON. I want to assure the gentleman I do not think it is, just on my reading of the report.

Mr. QUAYLE. If the gentleman will yield further, let me strike a deal with the gentleman. If I can prove to the gentleman it is in the report——

Mr. HORTON. We are not going to strike any deal. I will say to the gentleman that I do not understand the figure of 800. There is no basis for reducing the personnel in the Department by 800. There is an item of 900 overhead personnel listed in the report. The Office of Management and Budget told us in the testimony before the subcommittee that as a result of this reorganization they reasonably expected that we would reduce the number of personnel by 450. That is the number that was adopted by the committee. I think that is a reasonable number.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman from Texas.

Mr. HALL of Texas. I notice this amendment is asking that the full-time positions be reduced by 800 as opposed to the 450 set out in the bill. My question is how many full-time positions will be in the Department of Education if this bill passes?

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. HORTON was allowed to proceed for 3 additional minutes.)

Mr. BROOKS. Mr. Chairman, will the gentleman yield to me?

Mr. HORTON. I will be glad to yield to the chairman.

Mr. BROOKS. To my distinguished friend from Texas I would say the number of people now employed in the educational operation that will be transferred, not new people, people that are in place now, now is 18,253. There are the people that are now working in these

Mr. BROOKS. If the gentleman will continue to yield, not that I know of. They have some consultants in this number already, the gentleman understands, in the existing agency. When they transfer these people they will be transferring the authorities for these consultants. They may not need any more at all, but I do not know.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Yes, I am glad to yield.

Mr. QUAYLE. Mr. Chairman, I have found where it says in that committee report 100 overhead personnel is sufficient. It is at page 17, paragraph 2, sentence 2. I shall read: "The administration estimates 100 positions for overhead and support staff." The bill provides for 450. One hundred should be sufficient.

When we talk about reorganization, every time we talk about it we are talking about a reduction in personnel. The gentleman says we need the 18,000 or however many people are in there, plus 450 overhead.

Mr. HORTON. No. No.

Mr. QUAYLE. If the gentleman will continue to yield, this is overhead, over and above the transition.

Mr. HORTON. What we have said in the report is we will transfer the number of persons that are now in the offices that are being transferred, and then we will reduce that number by 450. That is the estimate that OMB gave us in the subcommittee as the number that would be saved as a result of this reorganization. That is what is being done in this

and local control of education. That is the only reason why this Department would be growing.

If you assume that, then you assume that the essence of this Department is badly based. Therefore, if we adopt the gentleman's amendment at least what we would do is assure ourselves that this Department would operate efficiently, it would reduce the bureaucracy which is presently there, which the big advertisement in the Washington Post told us yesterday is just horrendous. They showed us the lines drawn on all of these offices and agencies within the present Office of Education. They told us how bad it was. I agree, it is horrible.

But now we have a bill before us that is going to allow that to grow at 50 people a year. I am saying that the gentleman's amendment goes to the heart of the matter and really gives this Congress and this House an opportunity to really install efficiency in the Department by placing a real limitation on the personnel of this Department, and that real limitation will assure us that in the future this Department will not grow and will not become another bureaucratic monster.

Mr. ERLENEORN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman.

Mr. ERLENBORN. I thank the gentleman for yielding. I am glad the gentleman mentioned the ad in the Washington Post yesterday that showed us the areas. They say if we combine them we can cut 430 out and save some $15 million to $19 million.

Mr. **HALL.** of Texas. Mr. Chairman, will the gentleman yield?

Mr. **HORTON.** I yield to the gentleman from Texas.

Mr. **HALL** of Texas. Would the gentleman from Texas (Mr. BROOKS) state how many consultants and experts, in addition to the number you have just mentioned, would be employed by the Department in the event the Department of Education is authorized?

Mr. **BROOKS.** Mr. Chairman, will the gentleman yield?

Mr. **HORTON.** I yield to the gentleman.

Mr. **BROOKS.** That would be decided by the agency. We have no figures on that. They do not anticipate hiring a lot of consultants.

Mr. **HORTON.** If they do, it will be in their budget and they will have to justify it when they come before the Committee on Appropriations for their appropriations.

Mr. **BROOKS.** If the gentleman will yield, that is correct.

Mr. **HORTON.** Each year they would have to come back before the Committee on Appropriations and justify the number of consultants they had hired and would have to keep within their budget in that respect.

Mr. **HALL** of Texas. Mr. Chairman, if the gentleman will yield further, is it anticipated that there will be a request made to hire additional consultants and experts in addition to the full-time positions?

particular part of the bill.

Mr. **QUAYLE.** If the gentleman will yield further, this is what it says: "100 positions," not 450 positions. That is what my amendment does, it strikes it down from 430 to 100.

Mr. **HORTON.** That is the estimated number of the increase.

Mr. **WALKER.** Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. **WALKER** asked and was given permission to revise and extend his remarks.)

Mr. **WALKER.** Mr. Chairman, I think the amendment offered by the gentleman from Indiana deserves real consideration because it gets at the essence of the basic argument that the proponents of this bill are making. The proponents of this bill keep talking about the fact it is going to result in educational efficencies, that we are going to get additional efficiency out of this department and, therefore, it can be justified on that basis.

If you take a look at the bill we have before us, the efficiencies that we are talking about really result in a growth rate of 50 people a year without ever coming back to the U.S. Congress. That means in a period of a decade we are going to have 500 additional people in this Department without Congress ever having approved anything. Therefore, if the Department can be run on the 450, as the proponents claim, then there is no reason why we are going to have to increase it at 50 a year unless, unless this Department is going to grow and become bigger, and adopt more and more policies which will be an afront to State

flow chart with all of the lines and all of the boxes.

Let me ask the gentleman if this bill is adopted how many boxes and how many lines on that chart will be eliminated?

Mr. **WALKER.** Not a one, from what I could read. It appeared to me to be simply a flow chart of the present Office of Education which we are adopting lock, stock, and barrel into this Department.

Mr. **ERLENBORN.** If the gentleman will continue to yield, actually on top of that chart in the paper we will build a new superstructure of assistant secretaries and secretaries and such personnel, and off to the side we will be building another group of boxes and lines showing a flow and so forth of programs that are being brought in to add to the present Office of Education; is that not correct?

Mr. **WALKER.** I would have to say the gentleman is absolutely right. What we are really doing is taking that flow chart as the base of the educational problem and we are going to add to it. We are going to add additional problems. So it seems to me that no greater case could be made than that flow chart for the rejection of this particular Department.

Mr. **ASHBROOK.** Mr. Chairman, will the gentleman yield?

Mr. **WALKER.** I am glad to yield to the gentleman.

(Mr. **ASHBROOK** asked and was given permission to revise and extend his remarks.)

Mr. **ASHBROOK.** Mr. Chairman, in the Tuesday Washington Post there is a full page ad from the Ad Hoc Committee for a Cabinet Department of Education that is both false and misleading. This is an unfortunate entry into what has been a very evenhanded and reasoned debate on an important national issue.

The ad shows a portion of an organizational chart and claims that a new Cabinet department will solve the problems outlined from the maze of lines on the chart. This is very misleading. The chart, the full chart, is the organization of programs under the Office of Education. The maze of lines is the existing lines under the existing Office of Education. The DOE bill does not affect this maze of lines. The Office of Education is moved, lock, stock, and barrel, to a new Department. If anything, the new entity will make the monstrosity in the ad worse.

What we need to do is to reform the programs and the approach to Federal education activity. The last thing that is needed is more organizational boxes and more bureaucrats to inhabit them. We need to address real issues and address real questions and facts raised in the floor debate. The ad is a sham and does disservice to the sincere proponents of the bill. It is an embarrassment and shows only how far some are willing to go to dupe the public and the Congress into making a very bad mistake. I urge you to look at the real chart and to vote against H.R. 2444 so we can turn our attention to the real problems in American education.

Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.

Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee

Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo

Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob

Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler

Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1110

The CHAIRMAN. Three hundred ninety-one Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. HORTON) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind Members that they have 5 minutes in which to record their votes.

The vote was taken by electronic device, and there were—ayes 263, noes 143, not voting 28, as follows:

[Roll No. 311]

AYES—263

Abdnor
Addabbo
Andrews,
  N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Barnard

English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Ferraro
Findley
Flippo
Florio
Foley
Fountain

Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken

□ 1100

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE).

The question was taken; and on a division (demanded by Mr. HORTON) there were—ayes 17; noes 10.

Mr. HORTON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 310]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McEwen
McHugh
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver

Bauman
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boland
Bonker
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Fowler
Frenzel
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Lungren
McClory
McCormack
McDonald
McEwen
McKinney
Madigan
Maguire
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
O'Brien
Panetta
Pashayan
Paul
Petri
Peyser
Pickle
Preyer
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino

Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Nebr
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Fla
Zeferetti

NOES—143

Akaka
Albosta
Alexander
Anderson, Calif.
Aspin
AuCoin
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Boner
Bonior
Bouquard
Bowen
Brademas
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carr
Carter
Clay
Fazio
Fish
Fisher
Fithian
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Gephardt
Gibbons
Gonzalez
Gore
Gray
Hall, Ohio
Harris
Hawkins
Holland
Hollenbeck
Holtzman
Horton
Howard
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Lehman
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rosenthal
Rostenkowski
Roybal
Russo
Scheuer
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
St Germain
Stark
Steed
Stewart

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. **ASHBROOK**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 84, in line 6, strike out the semicolon and insert in its place: ", provided that such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term."

POINT OF ORDER

Mr. **BROOKS**. Mr. Chairman, I make a point of order against the amendment.

The **CHAIRMAN**. The gentleman will state his point of order.

Mr. **BROOKS**. This amendment is in the guise of a limitation on the authorization contained in section 436. It is, in effect, and amendment to repeal a statute not within the jurisdiction of the Committee on Government Operations. It would prevent the payment of salaries, prevent the execution of laws transferred by the bill to the new department. If you extend this concept, Mr. Chairman, it would certainly not be germane to this reorganization. It is expressly devoted to the preservation and reorganization of the educational institutions of this country.

Mr. Chairman, I think to allow this amendment would circumvent the authorities of other committees and would be certainly not germane in any shape, form or fashion to this legislation on reorganization.

The **CHAIRMAN**. Does the gentleman from Ohio wish to be recognized on the

Mr. **ASHBROOK**. Mr. Chairman, I thank the Chair for the ruling.

The amendment was carefully drafted to limit it to the provisions of services already set in this reorganization bill. This amendment is in keeping with both the substance and the spirit of the amendments added by this Chamber to HEW and Defense Department bills, both in this Congress and in past Congresses.

It simply adds language that prevents medical funds from being used for abortions except where the life of the mother would be endangered if the fetus were carried to term.

In the name of consistency and out of respect for life I urge its adoption.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. **ASHBROOK**. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. **ASHBROOK**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 85, in line 18, strike out the period and insert in its place: "; except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fe-

Coelho
Collins, Ill.
Corcoran
Corman
D'Amours
Danielson
Davis, S.C.
Dellums
Derrick
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fascell
Leland
Long, La.
Long, Md.
Lowry
Lundine
McHugh
Markey
Marks
Matsui
Mikulski
Mineta
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Nedzi
Nowak
Oakar
Oberstar
Stokes
Studds
Swift
Synar
Thompson
Traxler
Ullman
Vento
Walgren
Waxman
Weaver
Weiss
Wirth
Wolff
Wolpe
Wright
Yates
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—28

Ambro
Anderson, Ill.
Andrews, N.C.
Atkinson
Bolling
Brown, Ohio
Burton, John
Conyers
Diggs
Emery
Flood
Forsythe
Garcia
Gaydos
Goodling
Harsha
Ireland
Lee
McCloskey
McDade
McKay
Mathis
Mikva
Perkins
Santini
Skelton
Spellman
Treen

☐ 1120

The Clerk announced the following pairs:

On this vote:

Mr. Santini for, with Mr. Garcia against.

Mr. Emery for, with Mr. Diggs against.

Mr. Lee for, with Mr. Conyers against.

Mr. Brown of Ohio for, with Mr. Flood against.

Mr. McCloskey for, with Mr. Atkinson against.

Mr. LEVITAS and Mr. BONKER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

point of order?

Mr. ASHBROOK. I do, Mr. Chairman.

A clear reading of section 428 clearly indicates that the Secretary is authorized to provide services. Subparagraphs 1 through 7 clearly delineate these services. Emergency medical services and supplies, food and subsistence supplies, dining facilities, living and working quarters and facilities.

A reading of section 428 would seem to negate the entire argument of the able gentleman from Texas.

☐ 1130

This section creates authority in a reorganization bill, authority for the Secretary to construct, maintain as necessary the following for employees and their dependents.

My amendment simply offers a limitation on one of these services that is established in section 428, and for that reason I would suggest it is clearly germane.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has examined section 428 and agrees that the section does provide for the furnishing of certain services.

Paragraph 1 does provide for the furnishing of emergency medical services and supplies to departmental employees.

The amendment of the gentleman from Ohio is limited to restricting such services and supplies for certain medical purposes and is germane to that section.

Accordingly, the Chair overrules the point of order.

The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

tus were carried to term."

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. HORTON. Mr. Chairman, I think this is a little different from the other. The other amendment offered by the gentleman from Ohio had to do with the services that were rendered or to be under the control of the Secretary with regard to employees at remote locations.

In this one, it seems to me that it is different. It seems to me that we are creating a new law. This is not under the jurisdiction of the Committee on Government Operations.

It is inappropriate for our committee to be acting on this. This is a reorganization plan. It seems to me we ought not to be legislating new law with regard to this section of the bill.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. ASHBROOK. Yes, I do, Mr. Chairman.

My colleague from New York is correct in one important instance. This is a different section; but a full reading of section 429, particularly lines 13 through 21, clearly indicate the Secretary may require permitees under this section to recondition or maintain to a satisfactory standard at their own expense the real property, facilities, structures, and improvements involved.

This is merely a limitation on the authorization the Secretary has to permit the use by public and private agencies of the facilities.

For the reasons indicated before on the previous point of order, it is also a limitation on a specific authority given to the Secretary and does not impose any new duties.

I suggest that it is germane for that reason.

The CHAIRMAN. The Chair is prepared to rule.

The Chair concurs that section 429 involves or covers the use of facilities.

Pursuant to subparagraph (b) of that section, the Secretary is authorized to permit the use by public and private agencies of certain facilities under this statute, including facilities by its terms which are made available under sections 427 and 428 which could include medical facilities.

The amendment of the gentleman from Ohio seeks to limit that authorization by restricting the use of such facilities for certain medically related purposes.

Accordingly, the Chairman overrules the point of order.

The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I thank the Chair for the ruling. I do not need the 5 minutes.

I think we all recognize there are certain amendments, as the old saying goes, that speak for themselves. This amendment is another effort to make a limitation in this reorganization bill, which as I pointed out before and will point out again, is more than a reorganization bill. It authorizes many activities that may or of those fees to pay for abortions, is not only trampling on individual consciences, but also deserting the standards of institutional neutrality which are essential to academic freedom.

I wish I could say that this kind of violation is merely an abstract possibility, but unfortunately it is all too real. Students at several campuses of the University of California system have been denied the right to register for their courses because they refuse on moral and religious grounds to pay those mandatory fees. In effect these campuses adopted a policy of discriminating against a certain class of people, of closing its doors to those people on grounds which are completely unrelated to education. They are not content merely to aid and abet abortion through their own health plans, but insist that every student must make himself or herself a party to abortion financing.

This kind of discrimination is simply unacceptable in a society which values freedom of individual conscience. That is why this amendment is prochoice, and badly needed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions

Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini

Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio

Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton

may not be reposited in the Office of Education at the present time.

Section 428 authorizes the Secretary to operate facilities at remote locations. All of us know that is a euphemism for overseas dependent schools. In section 429 the bill talks about the use of facilities, public and private agencies, corporations and associations. This is higher education institutes for the most part.

My amendment, as the Chair correctly stated, simply operates as a limitation. It says the Secretary may not permit the use of any institution of higher education which uses mandatory student fees to pay for the performance of abortions except for the usual reasons we have attached in the previous HEW and Defense Department bills.

I urge its adoption.

Mr. Chairman, this amendment is both prolife and prochoice at the same time. It is prolife because, like any antiabortion measure, it helps focus still more attention on the ugly reality which is enacted daily on hospitals and clinics across the country. Like any antiabortion measure, it makes it just a little bit harder for people to evade that reality with convenient slogans and euphemisms.

This amendment is prochoice because it embodies the philosophy which this House has consistently favored for the last 3 years in the Labor-HEW appropriations bill: People should not be forced against their consciences to subsidize abortion on demand. A college which makes its students pay mandatory fees for nonacademic activities as a condition of enrollment, and then uses part

of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 312]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1150

The CHAIRMAN. Three hundred and eighty-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 149, answered "present" 2, not voting 26, as follows:

[Roll No. 313]

AYES—257

Abdnor
Addabbo
Albosta
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Breaux

Flippo
Florio
Fountain
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harsha
Heckler
Hightower
Hinson
Holt
Hopkins
Hubbard

Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O Brien
Oakar
Oberstar
Pashayan
Paul
Petri
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roth
Rousselot
Royer
Rudd
Runnels
Russo

NOES—149

Akaka
Alexander
Anderson, Calif.
Anthony
Ashley
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burton, Phillip
Carr
Clay
Cleveland
Collins, Ill.
Corman
Danielson
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Giaimo
Gilman
Ginn

Gonzalez
Gray
Green
Guarini
Harris
Hawkins
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kogovsek
Kostmayer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lujan
Lundine
McCormack
McHugh
McKinney
Maguire
Martin
Matsui
Mattox
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Nedzi
Nolan
Obey
Ottinger

Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rose
Rosenthal
Rostenkowski
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Slack
Snowe
Solarz
Stack
Stark
Steed
• Stewart
Stokes
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health,

Brinkley
Broomfield
Brown, Ohio
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Conable
Pritchard

NOT VOTING—26

Ambro
Anderson, Ill.
Bolling
Bonker
Burton, John
Chisholm
Conyers
Davis, S.C.
Diggs
Emery
Flood
Forsythe
Frenzel
Garcia
Goodling
McCloskey
Mathis
Mikva
Murphy, N.Y.
Perkins
Roybal
Santini
Skelton
Spellman
Treen
Wright

Mr. HEFNER and Mr. NOLAN changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1200

The CHAIRMAN. Are there additional amendments to title IV?

If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—TRANSITIONAL SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

Education, and Welfare:

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare, and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect; shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of porposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this

cumstances is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by 14.

(d) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(e) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

cation; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(j) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services,".

(k) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection (a)(1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department

Act had not been enacted: and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or cir-

"(5) Under Secretary of Education.".

(f) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4).": and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(g) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (5).".

(h) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health nad Human Services".

(i) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general edu-

of Education Organization Act (hereinafter referred to as the 'principal officer')." after "the 'Assistant Secretary').";

(2) by striking out "chairman" in such subsection and inserting in lieu thereof "cochairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education."; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependent's Education Act of 1978 to the Secretary and Department of Education.".

(l) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary not later than February 1 of each year.".

(m)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 302(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

(n)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

REDESIGNATION

Sec. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

Sec. 510. With the consent of the appro-

Amendment offered by Mr. Brooks: Page 103, strike out lines 17 through 19 and insert in lieu thereof the following: "Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

Mr. BROOKS. Mr. Chairman, this amendment changes from February 1 to January 1 of each year the date on which the Secretary of Health and Human Services is to transmit certain information to the Secretary of Education.

Section 111(c)(2)(B) of the Elementary and Secondary Education Act requires a count of the number of children in certain disadvantaged economic groups. This data is used for the allocation of some $4 billion under title I of ESEA. If this data is not submitted by January 1, the Secretary of Education would have to use stale data in his allocation of these funds. The change in dates in this amendment will permit the timely filing of required reports.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Brooks).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brooks: Page 99, beginning on line 1, strike out subsection (c) through line 3 and redesignate succeeding subsections accordingly.

Mr. BROOKS. Mr. Chairman, this amendment is offered at the request of Congressman [illegible], chairman of

utory in nature and they consider that the busing (227-135) amendment would have the full force of law even as an amendment to title I:

> As evidenced by its language, and remarks of its sponsor, this amendment is apparently intended to prohibit the Department from requiring State and local educational agencies that receive Federal funds administered by the Department to devise or implement student busing plans as a means of complying with Federal nondiscrimination requirements.

This argument is further supported by the fact that the busing amendment was to section 103 of title I which is statutory section beyond "Findings and Purposes." The quota and prayer amendments were to section 102 which is the "purposes" section.

This bill is the enabling [illegible] for a Cabinet-level department. [illegible] the purposes and findings in this bill define the future of that Department. Although there is no greater technical legal status to "purposes" in an enabling act, psychologically there is a much greater weight placed on them. Courts frequently will look to the enabling act and its provisions in interpreting all future legislation administered by this Department. And further, it is possible that judicial interpretation would include sections of the "Findings and Purposes" since the status of these amendments as expressions of congressional intent is unclear.

On June 19, the Chair ruled against a Dornan amendment on not authorizing funds for racial quotas. The ruling priate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

SEC. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

The CHAIRMAN. Are there any amendments to title V?

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

the Human Resources Subcommittee of the Post Office and Civil Service Committee, to make this bill conform to provisions of the Civil Service Reform Act passed by Congress in 1978. The amendment is technical in nature and makes no substantive changes in the legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Chairman, a number of Members have been troubled and have engaged in discussions about the effects of some of the amendments that have been added on to the bill as of now, particularly those amendments dealing with quotas, with busing and with school prayer.

Mr. Chairman, all three of these amendments were to title I of the bill. Title I is called "Findings and Purpose" and as such the items in this section usually state congressional intent and policy. But if an amendment is stated in direct statutory language it can have the full force of law. In order to obtain some clarification, I asked the American Law Division to interpret the legal effect of these amendments. They found that because of the wording of the quota (227-126) and the school prayer amendments (225-122) that they should be considered purposes of the new Department. Yet they do feel that the language of the Ashbrook busing amendment was stat-

was based on the fact that this was an organizational bill and that the title that Representative DORNAN tried to amend was not subject to a substantive authorizing amendment. Proponents of the bill assert that this ruling is broad enough to effect the previous amendments and to render them ineffectual.

A ruling of the Chair on a point of order only applies to the specific issue before the Chair and only on the section of the bill that amendment sought to modify. The ruling on the Dornan amendment held that the amendment was inappropriate because it dealt with the authorization of funds and this bill was an organizational bill and thus not subject to such an amendment.

The ruling on the Dornan amendment was correct for the section of the bill it referred to. Yet both the busing and the quotas amendments were challenged on points of order and the Chair overruled the points of order in each case, thus declaring them suitable for the section of the bill they amended—title I where general policy statements are appropriate. Chairman BROOKS raised the point of order against the busing amendment and Mr. HORTON raised the point of order against the quota amendment. There was no point of order raised against the school prayer amendment.

The ruling of the Chair on the Dornan amendment, not only would not apply to other sections of the bill not similarly challenged, but would not effect later interpretation of the law if passed. A parliamentary ruling of one Chamber has no legislative effect on the other Chamber or on a conference committee.

The ultimate effect of the Ashbrook busing amendment (227-135) will be to eliminate title VI of the Civil Rights Act of 1964 as an effective tool of the new department on the issue of busing. Title VI mandates that HEW cut off all funds to a school district if they are discriminating on the basis of race, color, or national origin. What the Ashbrook amendment would do is to deny to this new department the remedial power to threaten and cut off Federal funds where discrimination occurs and where there is no ongoing court ordered busing.

According to the American Law Division:

> The Ashbrook Amendment would appear to prohibit the proposed Department of Education, as successor to HEW, from issuing rules or regulations or otherwise requiring school districts, as a condition to receipt of educational funding, to implement student bussing remedies to achieve compliance with Title VI. It would apparently deprive the Department of its principal enforcement mechanism under Title VI, that is, its authority to cut off Federal funds to school districts that fail to adopt such measures."

☐ 1210

The hard, cold facts of life are the three amendments I have talked of, quotas, busing, and school prayer, are in this bill and they have been carried by significant votes. If anyone is naive enough to think those who oppose these amendments, as I did, if anyone is naive enough to think that the conference committee can effectively take this out, they are absolutely deluding themselves.

Mr. MITCHELL of Maryland. Mr.

sidered supporting this bill, but who oppose these amendments as I do, would understand that the only way to eliminate these amendments from becoming actual law is to vote against this bill.

The CHAIRMAN. Are there additional amendments to title V?

If not, the Clerk will designate title VI.

(Title VI reads as follows:)

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505 (b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the

This amendment, which has the approval of the Budget Committee, will correct any conflicts with these two provisions of the Budget Act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEARD OF TENNESSEE

Mr. BEARD of Tennessee. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEARD of Tennessee: Page 108, after line 2, insert the following new section and conform the table of contents accordingly:

TERMINATION OF THE DEPARTMENT

SEC. 603. (a) The Department shall terminate six years after the effective date of this Act unless prior to that date a law has been enacted which continues the Department.

(b)(1) If the existence of the Department is not continued by the enactment of an Act not later than six months prior to the termination date specified in subsection (a), the President shall submit a plan to the Congress which transfers the functions of the Department to other departments or agencies unless prior to the termination date of the Department its functions have been so transferred by law. The President may not submit a plan under this subsection which provides for or has the effect of creating a new executive department.

(2)(A) The plan submitted by the President to the Congress pursuant to this subsection shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which such plan is transmitted to the Congress unless, between the date of transmittal

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Chairman, will the gentleman yield?

Mr. ROSENTHAL. I am happy to yield to the gentleman.

Mr. MITCHELL of Maryland. That is the argument that is being sold to this Member, that while we have these heinous amendments in, that somehow or other the conference committee is going to have miraculous powers to clean them up. The gentleman says that Congress will not do this. On what basis does the gentleman make that statement?

Mr. ROSENTHAL. I defer to any one of my more senior and experienced colleagues. But the fact of life is when an amendment carries by a spread of over 100 votes, in the real world there is no effective way of eliminating that amendment. The conference committee maybe cannot report out, cannot reach an agreement and can sit indefinitely until the Congress comes out of existence, but in the real world there is no way that these three amendments, albeit the latest Ashbrook abortion amendment may be eliminated, there is no way these three amendments will be eliminated from the conference report, and the fact of the matter is with those three amendments and that vote, the conferees are mandated to maintaining the position of the House in support of those amendments regardless of their personal feelings.

Mr. MITCHELL of Maryland. If the gentleman will continue to yield. I thank the gentleman. That tilts me a little further in the direction of a "no" vote on final passage.

Mr. ROSENTHAL. I certainly would hope all of our colleagues who have con-

Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 107, beginning on line 1, strike out "on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act." and insert in lieu thereof the following: "on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979,".

Mr. BROOKS. Mr. Chairman, this amendment amends the effective date section of H.R. 2444 to insure that no provision of the act will go into effect before October 1, 1979. It thereby cures two conflicts with the Congressional Budget Act. Section 401(b)(1) of the Budget Act provides that it shall not be in order to consider any bill containing an intitlement provision effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. Section 402(a) of the Budget Act provides that it should not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of such fiscal year.

of the plan and the end of the sixty-day period, either House passes a resolution stating that the House does not favor the plan.

(B) The provisions of sections 908, 910, 911, and 912 of title 5, United States Code, shall apply to any resolution considered under this paragraph. For the purposes of the preceding sentence—

(i) all references in such sections to "reorganization plan" shall be treated as referring to a plan submitted under section 603(b) of the Department of Education Organization Act of 1979, and

(ii) all references in such sections to "resolution" shall be treated as referring to a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the   does not favor the plan submitted under section 603(b) of the Department of Education Organization Act of 1979 on   , 19   .", the first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

(3) If a plan is disapproved in accordance with the provisions of this subsection, within 30 days after the date of disapproval of such plan the President shall submit another plan to the Congress for the transfer of the functions of the Department. Such plan shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to the Congress unless the plan is disapproved in accordance with the procedures established in paragraph (2). The President shall continue to submit additional plans for the transfer of the functions of the Department until a plan takes effect.

(4) For the purpose of this subsection—

(1) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period

of time in which Congress is in continuous session.

Mr. BEARD of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

(Mr. BEARD of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman.

Mr. WHITEHURST. Mr. Chairman, I want to commend the gentleman for offering what I think is one of the most commonsense amendments that has been offered to this bill. No one can properly object to this. If it is going to do its job, after 6 years it can go on. If it is not, then it ought to be terminated.

So many of the people I have had complain about this who are for this department simply cannot make their arguments stand up. It seems to me that the gentleman has done the House and the Nation a service by entering this amendment and I congratulate the gentleman.

Mr. BEARD of Tennessee. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. Certainly, I yield to the gentleman.

SAFE LANDING OF SKYLAB

Mr. BURGENER. Mr. Chairman, I am sure the Members will be pleased to know that Skylab has landed safely in the Indian Ocean.

Mr. HORTON. I thank the gentleman. It shows NASA as a pretty good agency, and they are doing a good job.

The CHAIRMAN. The gentleman from New York (Mr. HORTON) is recognized for 5 minutes.

Mr. HORTON. Mr. Chairman, I rise in opposition to this amendment. I want to commend the gentleman from Tennessee (Mr. BEARD) for his unfailing efforts with regard to sunset provisions. I do think, as the gentleman from Tennessee said, that he does support the concept of sunset of various programs.

Now, this amendment does not mandate sunset for programs, but it mandates sunset for a Cabinet-level agency. I feel it is very important for us to exercise our oversight function in the Congress, and one of the disciplines that we have in the exercise of our legislative oversight is the concept of sunset. Because sunset provisions the Congress is forced to look at various programs to determine whether or not they are effective. I think we ought to do more of that.

But, I think it is unreasonably burdensome to put a sunset provision on a new agency, and especially a Cabinet-level agency. I happen to have served as chairman of an agency that did have a sunset provision. When this House authorized the creation of the Paperwork Commission, it was created for a period of 2 a misuse of the sunset principle. I think it is unrealistic. Third, I think it will hurt the cause of serious, meaningful sunset legislation in the House.

I think, first, it is a misuse of sunset because sunset is the device to force a rational review of spending programs, as the gentleman from New York has just said, not whole departments. It is just as simple as that.

I think it is unrealistic to talk about sunsetting a major department, and we all know that. No one is going to suggest that we ought to have a sunset clause on the Defense Department or the Department of the Treasury, and if Members believe there ought to be an Education Department, then nobody should seriously suggest that we would even consider sunsetting the whole Department. The fact that one might be opposed to this bill is not a good enough reason for this amendment.

Third, I think it misuses the sunset principle, ignoring a requirement for spending program review, which is what we really need to get at. We need to get at the spending programs. Ignoring that and simply sunsetting a department I think hurts the cause, hurts the credibility of the sunset movement, and is a setback in getting meaningful legislation.

I would add that the Rules Committee, and ultimately the House, but the Rules Committee right now has been having extensive hearings on sunset legislation. I think it is highly likely that they are going to do something meaningful in this Congress. I think most

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Mr. DORNAN. Most of us in 1976, our bicentennial year, campaigned for sunset laws, and many of our victories were attributed to taking a strong position in support of sunset legislation.

Could I ask the distinguished gentleman from Tennessee one question about the length of time allowed in his amendment, that is 6 years? I have noticed with all amendments the gentleman has offered in the 2½ years that I have been here, that his amendments have been as close to perfect as is humanly possible. But I am considering submitting a perfecting amendment here to make your amendment a 5 year sunset provision so that the President who will succeed President Carter in January of 1981 will have an opportunity to set the sun on this department if it gets out of control. Why did the gentleman not make your sunset law 5 years?

Mr. BEARD of Tennessee. I would certainly entertain such a perfecting amendment. But in looking at it we felt 6 years would give the Department, time to make it work. We just felt that 6 years was a fair period of time.

□ 1220

Mr. DORNAN. Well, in the gentleman's typical thorough and generous manner he has thought it through, so I will not submit my perfecting amendment.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

(By unanimous consent Mr. BURGENER was allowed to speak out of order.)

years from the date of its first meeting. It met in October 1975, and therefore it had to go out of existence in 1977. I can tell the Members from personal experience that that is a very trying situation. First of all, we have to create a new agency, and that takes time. Then, there came a time about midway through our task—in this instance in 1 year—when we had to start scaling the agency down so that it could go out of existence at the end of 2 years.

It is almost counterproductive to put a sunset provision on an agency because it is going to create a lot more extra work in the agency to meet the mandate of the requirement that it come back before the Congress to justify its existence. The Congress will have plenty of opportunity to oversee this agency. We have a provision that limits the number of personnel. Among its other responsibilities, the Congress has its normal function of authorizing and then of appropriating funds for the agency.

I think that this is a burdensome and unreasonable restriction on this agency, and I urge its defeat.

Mr. BLANCHARD. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, I do not like to get up and oppose a so-called sunset amendment, being one of those, as is the gentleman from Tennessee, who strongly supports the sunset concept. However, as the author of H.R. 2, which has over 180 cosponsors and is the major sunset bill in the House, I feel compelled in this instance, to oppose this amendment.

The major reasons why I oppose the amendment are threefold. I think it is people here in the Chamber and those colleagues watching on television in their offices would agree we ought to be doing something on sunset. It ought to be serious; it ought to be rational; it ought to relate to spending programs and be realistic. For all those reasons, I would oppose this amendment and urge those who have cosponsored H.R. 2 or similar legislation to oppose it.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to this amendment, and observe that we are reaching the sunset of the debate on the creation of the Department of Education. I want to make it clear at the outset that I am a traditional supporter of the concept of sunset, and during the 15 years that I have been in the House I have seen almost every new program that has been enacted by the Congress contain a sunset-type limitation to force us to look at that program to see if it has achieved the results intended—to see if it has been properly run by the executive branch. It has become practically traditional for such sunset provisions to be attached to authorizations for new programs.

But, as the gentleman from Michigan, who just spoke in the well, made the distinction, and the gentleman from New York made the distinction, it has been also traditional to make a distinction between programs and governmental structure. I think it is altogether proper that we force review of programs, and in the Department of Education, should it be created, each one of its programs should be subject to a sunset provision, hopefully in varying periods of time to occur year by year so that we could take a good, hard look at a particular program or set of programs in one year, and then another set of programs in another year.

That is why all sunset legislation has been introduced, to get to those authorizations that were enacted prior to the tradition of putting limitations on authorizations.

☐ 1220

We have to go back and get the old programs. Some of them have been on the books much too long and may have either never been properly structured or have already served their purpose. But it is not proper, in my opinion, and I join the gentleman from New York in making the distinction, to attach a sunset provision to a structure of Government with the creation of an agency of a Cabinet-level department. Therefore, I hope the amendment will be defeated.

Mr. Chairman, at the outset I must declare my opposition to the proposed Cabinet-level Department of Education. While I am a strong supporter of congressional efforts to enhance the quality of school programs for our children, I remain unpersuaded for a number of reasons that the creation of a new Department is the most effective means of helping a second-grader in Wilmington or a high school senior in Seaford to gain a first-rate education.

efforts of schoolboards and State Departments of Education to formulating, administering, and directing a distinctly Federal education policy.

Mr. Speaker, proponents of H.R. 2444 suggest that a new Department would not increase intervention by the Federal Government in local educational affairs. I am not aware of any Cabinet-level Department which does nothing more than pass out Federal funds without any strings attached. By definition, Federal Cabinet-level departments implement national policies on particular matters. This proposed Department will inevitably attempt to implement policy directives which would exceed the principle of the 10th amendment to our Constitution: That only certain powers can and should be assumed by the Federal Government; all other matters are reserved to the several States. Education policy is certainly a local concern which does not deserve excessive encroachment on local school districts that the proposed new Federal Department of Education would bring.

The new Department would over time have the effect of shaping the values of future generations of Americans according to the political, social, and economic values held by a group of faceless bureaucrats in Washington. The creation of this Department provides the ripe potential for the centralization and control of ideas. For this reason alone, a Federal policy on education repudiates our traditional recognition of the need for diversity of thought and opinion. The to strengthen the position of education as a national concern among competing social priorities within the Federal Government. However, this necessary objective could still be more effectively and readily accomplished through a comprehensive reorganization within HEW. Anyone who suggests that education programs would receive additional funding due to their allegedly enhanced status in a Cabinet-level department simply misunderstands the nature of the Federal budget process. It is the emphasis placed on education by the President and by Congress which determines program funding levels and not simply cabinet status. In summary, I cannot believe that the formation of still another Federal bureaucracy will be cost effective over time and improve the quality of education received at the local level by the young people of this country.

Finally, I think one important factor has been ignored in the debate over this proposal: How will this bill affect the intended beneficiaries of Federal education programs? Very few reasons are even suggested by the proponents of this bill to demonstrate that a sixth grader in a Delaware elementary school will receive an improved education as a result of the creation of a Federal Department of Education. In fact, there is nothing in this proposal that provides any promise or even any hope that anyone will learn more, or faster, or more happily, or even at less cost while in school or college. This new Department

Education has flourished in this country because it has enjoyed the diversity that has come from independent initiatives made by separate communities, States, and private institutions. In contrast to many of the other nations around the world, most of which have centralized ministries of education, we have not yet chosen to locate primary responsibility for the education of our children at the Federal level of Government. The formation of the proposed Department would violate our traditional reliance on local initiatives and mark the beginning of Federal domination over the basic policy considerations affecting our educational systems. At a time when the influence of the Federal Government is so pervasive. I am doubtful that the American people are truly willing to create a backdoor means of establishing a Federal policy for education.

I am absolutely certain that a new Federal Department of Education would eventually have the power and the inclination to tamper with areas in both public and private education that rightfully belong to parents and the local community. Education and school policies are not now and have never been responsibilities of the National Government of the United States. Many of my constituents in Delaware already feel the Federal Government is exercising too much influence over all aspects of local education programs. The creation of a Cabinet-level department would not simply be a benign effort at reorganization and streamlining. This would be a tremendous shift in emphasis by the Federal Government from supporting the local shift in control over education policy from local bodies to the Federal Government would have far-reaching implications and contradict my constituents' strong belief that less intrusion by the Federal Government into educational matters would best serve young Americans long term interests.

Additionally, I oppose the Department of Education because there is absolutely no guarantee that the promised operational efficiencies from a Cabinet-level department would ever materialize. It is only a shadow of a truly comprehensive agency and leaves out more Federal education activities than it includes. There is no evidence that a separate department would increase intergovernmental coordination. Creating a Department of Education would not untangle the swarm of Federal education offices and projects in the existing Office of Education within HEW. It would simply put a more prestigious label at the top of an organization chart without delivering any real operational benefits.

Three Presidential study commissions have concluded that centralizing Government agencies under the guise of reform is not always beneficial. Indeed, the history of recently created Cabinet-level departments argues against removing the Office of Education from HEW. The Department of Energy for example has contributed to our unacceptable position of dependency on a foreign oil cartel. A more effective management structure within HEW would settle the problems of the Office of Education without creating a new self-perpetuating bureaucracy.

I support the recognition of the need would further entrench many of the Federal bureaucrats and ineffective programs spawned by the Federal Government which have done little to educate our children. The teachers in my home State are good ones. What we really need to do is reduce the incentive for Federal meddling in the education and increase the opportunities for our teachers to do what they are best at: educating students. The expansion of the Federal education bureaucracy will not in the long run help either the teachers or the children. There is no credible educational rationale for creating a Federal Department of Education. That is the fundamental shortcoming of this proposal and the reason why I intend to vote against the creation of a new Federal Department of Education.

Mr. ERLENBORN. Mr. Chairman, I yield back the remainder of my time.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the entire question of applying the sunset approach to the Federal Government is now under study by the Rules Committee. Under the able direction of the gentleman from Louisiana (Mr. LONG), hearings are being held, experts are being closely questioned, and sometime this year we can expect a lucid and enlightening report that will deal with the question on a broad, Government-wide basis.

That is the way this problem should be approached, not on a piecemeal basis, applying it to only one department, as this amendment proposes. The broad, Government-wide approach is also the one taken in the major sunset bills introduced in both the House and Senate.

They provide for systematic review of programs on a regularly scheduled basis. They would not terminate an entire department, as would this amendment.

Furthermore, Mr. Chairman, practically all the programs that are being transferred into the new Department already have to undergo periodic review and renewal by the authorizing committees. They have to be funded each year. Congress has ample opportunities to examine the programs and see how they are working before it decides to continue them.

This is a bill to create a Department of Education. We will have an opportunity later during this Congress to deal with the question of applying the sunset approach to all Federal programs. Let us not try to combine the two questions in this legislation.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. BEARD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BEARD of Tennessee. Mr. Chairman. I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. FOUNTAIN was allowed to proceed for 5 additional minutes.)

Mr. FOUNTAIN. Mr. Chairman, although I am the ranking majority member of the Committee on Government Operations, I have not yet addressed

I have given considerable thought to the proposal for establishing a Department of Education and have carefully examined in particular the testimony of the OMB Director before the Brooks subcommittee. As I understand it, the administration does not claim that a department is necessary for developing a national educational policy. In fact, Mr. McIntyre acknowledged that the Federal role in education is "limited and specific." This is a fundamental point which I think deserves emphasis. The proposed department allegedly is not intended to be an instrument for developing a Federal policy for education, at least not by the current administration.

If educational policymaking is not at issue, then what is the justification for a new department? The administration bases its case on improved management. In Mr. McIntyre's words:

> The question before the Congress is simply this: How do we most effectively manage more than 150 Federal education programs? Do we do this through a separate department, as the administration has proposed, or do we continue with the existing organization?

He then proceeded to present the case for a separate department.

I would have no objection to giving education a separate department with Cabinet status if this step were necessary to produce more effective and economical program management. However, it could easily be done by the President under existing reorganization authority.

Of greater importance, I find it disappointing that the administration has not given attention to another manage-

Surely no efficient department clearance process should take that long for the issuance of a noncontroversial regulation. We can do something about this problem without establishing [illegible] new Cabinet-level department.

Similarly, the OMB Director testified that a separate Department of Education could reduce the time it now takes to prepare the education budget and also speed up the process for developing legislative proposals. I do not see this as a significant argument for another Cabinet department, since the budget cycle is an annual one and HEW obviously manages to get its education budget to OMB on time, even if the internal processing does take longer.

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As for a slower and more deliberate review of legislative proposals, I would view this as a very strong argument for retaining education in HEW. Since professional bureaucrats, as those of us who have been here for a long time regularly observe, generally excel at promoting the expansion of their programs and their jurisdictions, a more thorough and objective review can only be salutary, especially in an area which even the strongest proponents of a new department concede is basically a State and a local responsibility.

Mr. ROSENTHAL. Mr. Chairman will, the gentleman yield just briefly-

Mr. FOUNTAIN. I will yield to the gentleman from New York briefly.

Mr. ROSENTHAL. The point we ought to make is that all the deficiencies that McIntyre testified to can be corrected this bill on the floor because of my interest in completing the debate in compliance with the wishes of my distinguished chairman, the gentleman from Texas (Mr. BROOKS). But I do feel compelled now to express my very strong views in opposition to this legislation.

Let me first say that this legislation was reported out of the Committee on Government Operations by a vote of 20 to 19, which indicates the controversial nature of the subject matter we are discussing.

During my days as a member of the North Carolina State Senate before I came to the Congress, I was an ardent supporter of public education. Education is the basic bedrock upon which our country has grown to greatness. Since I have been in the Congress, I have remained a strong supporter of education and have consistently favored valuable supplementary aid to education. But notwithstanding my long years of support, I am opposed to this ill-advised and unnecessary legislation to establish a department which will grow and grow, cost the taxpayers of this Nation unnecessary billions of dollars, and ultimately become an unmanageable monster bureaucracy. After having observed the growth of Federal executive agencies for over 26 years I sincerely believe this to be true. I have firmly concluded that there is not one single title, section, paragraph, or line in this bill which would be of comparative use or benefit to the legitimate consumers of education in our country—the students in our various educational institutions.

ment option—namely, a critical review of our current education programs to determine how many of them are really needed today or how many should be amended, consolidated, or eliminated. Particularly since Sputnik, we have created a maze of programs, many of them overlapping and duplicative with complicated regulations and administrative relationships. It would be, in my opinion, far more useful to concentrate on weeding out programs that have outlived their usefulness, that duplicate one another, or that simply do not work, than to devote our energies to creating a new organizational structure which might well help to perpetuate many unecessary programs. I believe we would accomplish far more by giving attention to reducing the number and the complexity of the programs we have spawned before concerning ourselves with organizational matters in the form of a separate department—a Cabinet-level department, bear in mind.

In any event, since the administration has chosen to build its case on management effectiveness, I want to examine briefly some of the benefits it anticipates from the Cabinet department.

Mr. McIntyre testified that the processing of education matters within HEW is unduly slow because of unnecessary duplication and fragmentation in the Department's organizational structure. He stated, for example, that the average time required to issue a routine regulation is nearly a year and a half. A Department of Education, he said, would cut the time in half by eliminating 15 offices from the clearance process.

by executive order.

Mr. FOUNTAIN. The gentleman is quite right.

Mr. ROSENTHAL. Every single one of them.

Mr. FOUNTAIN. The gentleman is quite right.

One important proponent is the National Education Association, which testified before the Brooks subcommittee that "the Federal Government ought to be paying as much as a third of the cost of public education." In view of the history of this legislation, let me say that since this is a political question, it is going to be a political decision for those who vote for this bill. The NEA's goal of a one-third Federal share stands in sharp contrast with the approximately 8 percent the Federal Government presently contributes through all of its programs to public education. What a field day the education interests could have in pressing through their own department for a larger Federal percentage without the present constraint of having to compete with health and welfare advocates for a share of the HEW budget.

If the President has a personal interest in particular education matters, as the OMB Budget Director says, he can surely invite the principal HEW officials concerned to the White House for discussions, or the President can instruct the White House staff to pursue the matter for him. Presidents have rarely, if ever, used Cabinet meetings as a forum for resolving issues that pertain to a single department.

As a further observation, I think we should recognize that the Federal Government, despite its continuing support for education, has not provided solutions for the problems that afflict our schools. The plain truth is that the Federal Government has no special competence for improving the quality of education or student performance. I believe it is appropriate for the Federal Government to support research and other items aimed at obtaining a better understanding of these difficult matters, but we should never delude ourselves into believing that a new department, or even more Federal spending, will solve these problems.

Better coordination and better management of existing education programs are surely desirable objectives. However, I have not seen persuasive evidence that the upgrading of the Office of Education to cabinet status, with the responsibility for administering only about half of the Government's education programs, would make a significant difference.

Education is not a major function of of the Federal Government. Rather, it is reserved by the Constitution to the States and their local units, and traditionally and historically has been treated that way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. FOUNTAIN was allowed to proceed for 3 additional minutes.)

Mr. FOUNTAIN. Throughout our history, Mr. Chairman, the role of the Federal Government in education, at most, has been strictly limited to supplemental school districts throughout the country maintain and file mountains of additional data through a federally implemented uniform system of reporting. The staggering possibilities emanating from Federal bureaucratic control of education go on and on.

Mr. Chairman, the educational decisionmaking process would be transferred from our State capitals, our county seats, and our local school districts to the massive educational network spread out in a maze along the Independence Avenue and Maryland Avenue corridors in Southwest Washington. Without a doubt the empire would multiply further throughout our Nation's Capital as more real estate is gobbled up to make room for a burgeoning educational establishment.

The passage of this legislation would mean bureaucracy unleashed like we have never seen it unleashed before in the history of this democracy.

My friends, you can rest assured that Federal special interests—formally institutionalized in a Department of Education—will eventually call all the shots on the educational front, and that State and local control of education will go out the window completely unless we kill this legislation here and now.

Enactment of this bill will mean that State and local educators will soon be mere administrative agents of the Washington educational bureaucracy.

We have heard the proposition that a separate Department of Education would provide a better management tool for Federal education programs. Yet, while cient management. The President has the congressionally delegated power to reorganize HEW. This bill contains no feature whatsoever which would improve coordination in the delivery of services. Rather, the problems now existing in public education would be compounded and magnified by enactment of this legislation.

I urge my colleagues to defeat this unwise proposal. Rejection of this bill would give all of us a chance to work harder to improve education within existing administrative frameworks and Federal-State relationships. The task will be difficult, but we can take an important step by voting down this legislation before us today.

The major responsibility for the development of educational policy should remain decentralized—under the watchful eyes of parents, local school boards, and local administrators. We cannot afford to erode State and local control to any greater extent than we regrettably have already.

Let us lay aside the justifications and vague hopes offered by the lobbyists and special interest groups and think instead of the children of our Nation—the real consumers of education. Will they be best served by an even more massive educational bureaucracy centralized in Washington? The answer is no.

Cabinet departments ought not be created except in times of legitimate or compelling national need, and the burden of proof should be squarely on the proponents' shoulders. The evidence in favor support of activities perceived to be in the national interest. Along these lines, there is a national consensus in favor of valuable supplementary Federal aid to education. However, there is not now, nor has there ever been, a consensus for heightened Federal involvement in and control over education.

Complete, or at least excessive, Federal control will likely result if this bill is enacted, notwithstanding amendments designed to slow down the process. Predictably, the top bureaucrats of the new department and the interest groups will do their dead level best to see to it that Federal funding of education is increased almost overnight from its present 8 percent share to the NEA's well-publicized goal of 33⅓ percent. Logically I see no reason to hope that they would rest on their laurels and stop at 33⅓ percent. Why not 40 percent? How about 50 percent? Could 66⅔ percent, 75 percent, or even more, be much further down the road?

With the increases in Federal funding and the accompaning pressures for more and more dollars from Washington, there would undoubtedly come demands that all teachers and all school facilities meet burdensome and restrictive national standards, that all course offerings contain basic essentials determined by the Federal Government, that all students attain a nationwide minimum level of competency set by Washington bureaucrats, that Federal standards for labor-management relations in education be mandated, that State and local governments meet exacting Federal standards for educational expenditures, and that all the catalog of Federal education assistance programs for 1978, compiled by the Commissioner of Education, lists 312 separate programs offering educational benefits to the American people, only about half would be transferred into the proposed department. The clamor of organized constituencies has thus far dictated whether certain programs will be included. Decisions have not been based on the merits of individual inclusions or exclusions. I fail to see how better management can be the outgrowth of infighting among various interest groups.

Since 1976, the Department of Health, Education, and Welfare has had an Office of Inspector General, established by legislation introduced by myself and others. Thus far, the Inspector General has not only made several worthwhile contributions to overall efficiency and economy in HEW, but also has played a major role in improving program management in the department. In fact, one of the primary purposes of the 1976 act was to accomplish the same managerial goals which supporters of this bill used in committee and are using now on the floor.

Mr. Chairman, the creation of a separate Department of Education would further politicize education in our country to the severe detriment of the people served by our educational institutions. In order to educate properly, we need to maintain traditional diversity in our approaches, taking into account particular needs. This legislation would destroy that diversity.

Nor is creation of a separate department justified in terms of sound and efficient should be clear and convincing, but the proponents of this legislation have not made a concrete case for moving from our very important Federal supplementary aid to education to more Federal responsibility for education.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. BEARD of Tennessee and by unanimous consent Mr. FOUNTAIN was allowed to proceed for 1 additional minute.)

Mr. BEARD of Tennessee. Mr. Chairman, would the gentleman yield to me?

Mr. FOUNTAIN. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr Chairman, does it concern the gentleman in the well or does the gentleman have any speculation as to why the NEA would oppose my sunset provision?

I must say that I am very disturbed that we could not even get a record vote on a sunset provision that is supposedly one of the major legislative thrusts of this Congress. That makes me fearful that NEA would oppose something that is so legitimate in our legislative process.

Mr. FOUNTAIN. Of course, different Members may have different reasons for opposing or supporting the amendment that was just offered by the gentleman from Tennessee.

Insofar as NEA is concerned, that organization would oppose it because it does not want to have the slightest opportunity of this institution ever becoming defunct through a sunset provision.

Mr. BEARD of Tennessee. Mr. Chairman, I was planning to vote for the Department of Education until the sunset provision was defeated. I just do not think the people of my district want to chance another Department of Energy.

Mr. FOUNTAIN. Mr. Chairman, I recently came across a statement made by a Member of Congress which sums up in a paragraph one of the most persuasive arguments against this bill. Speaking in opposition to legislation to establish a Department of Education in the Federal bureaucracy, he said—

> I am not of the opinion that an establishment of this sort in this city through the General Government will really promote the cause of education in the country. It will be a benefit to a few persons; but that it will reach the masses of the people of the common schools of the country in any beneficial influence I do not believe.

That member was Senator Thomas A. Hendricks of Indiana. Now for those who know that Senator BAYH and Senator LUGAR represent Indiana, let me point out that Senator Hendricks has not been in Washington for a while. In fact, he made that statement on the Senate floor on February 23, 1867 as the 39th Congress debated a bill to establish at the Federal level a Department of Education. The debate recorded in the Congressional Globe are intriguing from an historical point of view, but are also informative and enlightening for our more immediate purposes as we consider this proposal in the 96th Congress.

When the House debated that legislation 112 years ago, Representative Andrew J. Rogers of New Jersey called it—

> . . . a proposition which is a mere scheme of

Despite these arguments, which made good sense in 1867 as they do in 1979, Congress passed the bill, and President Andrew Johnson signed it into law on March 2, 1867. The Department of Education, in the words of the act, was established—

> . . . for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and Territories, and of diffusing such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

Interestingly enough, the 39th Congress authorized not only a Commissioner of Education to manage the new Department but also three clerks to assist the Commissioner. The Commissioner's salary was set at $4,000 a year and the clerks were to be paid salaries of between $1,600 and $2,000 per annum. Incidentally, members of Congress at the time, according to the Globe, received a salary of $3,000 per year—less than the Commissioner earned.

The Commissioner of Education was required under the 1867 act to present an annual report to Congress "embodying the results of his investigations and labors, together with a statement of such facts and recommendations as will, in his judgment, subserve the purpose" of the Department. I might add that the Department was not a Cabinet-level the Appropriations Committee. The Senate amended the House bill to continue full funding of the Department.

At the center of the dispute over the future of the Department was the Commissioner of Education, Prof. Henry Barnard of Connecticut, a former State superintendent of public schools in Rhode Island and Connecticut. A careful reading of the floor debates on the repeal of the Department shows that Professor Barnard was a controversial official.

For instance, Representative Elihu B. Washburne of Illinois, a member of the House Appropriations Committee, said—

> We found on examination that this Department, which was established when we were in the mood for establishing almost everything and making appropriations for almost every purpose, had never, in point of fact, been put in operation; that the Commissioner of the Department had, during the ten months or thereabout since his appointment, only spent two months of that time in Washington, and had no office here except one over a restaurant * * * If I had time I would argue the question of the necessity of a department of this kind in this country. I would like to know why we should launch out with these numerous departments.

Nowadays, we call it "congressional oversight." I do not know if the 40th Congress had a formal name for that essential function of the legislature, but the practical effect and the message are the same—repeal unnecessary and duplicative departments, agencies, and pro-

> philanthropy, got up for the purpose of educating the children of the whole country, and the result will be that in a short time this bureau will need more clerks and exepnses for stationery . . . And where will it end? It will not stop until we run up a bill of expenses that will materially injure the finances of the Government.

Representative Samuel W. Moulton of Illinois wondered aloud on the floor of the House how the so-called need for the legislation arose—how it was brought to the attention of Congress. He answered his own question—

> In last January or February the leading educational men in this great Republic met here in this city of Washington, and after a long and careful conference, and a full discussion and hearing upon all sides, they came to the conclusion that a department of this kind was absolutely necessary for the benefits of the whole country and the promotion of the educational interests of the country.

Senator Garrett Davis of Kentucky also argued against the bill—

> (The bill) seems to me to be more of a device to create officers and patronage and to make drafts on the Treasury than anything else. Instead of increasing the bureaus in the Departments, I would be willing to discontinue about half a dozen of them. I think there are a great deal too many already . . . This thing of Congress drawing into the vortex of the power of the national Government so many subjects and interests that, according to my judgment, belong peculiarly to the States, and were intended to be left exclusively to State management, and that can be so much more wisely and successfully and beneficially managed by the States than by Congress, is a very mistake policy. That is my humble opinion.

entity, but was labeled a Department so that the Commissioner could select and appoint his own clerks. If it had been called a "bureau", the Commissioner, according to the state of the law at that time, could not have personally chosen his clerks.

Based on the action taken by the 39th Congress, supporters of this legislation before us in the 96th Congress might argue the 1867 act is of precedential value today. However, before that conclusion is hastily reached, let us look further at the history of the original Department of Education.

The 40th Congress repealed the Department of Education and relegated it to the status of an "office" within the Department of the Interior, under the direction of the Interior Secretary, effective June 30, 1869. That action came in the form of an amendment to an appropriations bill, signed by President Johnson on July 20, 1868.

The legislation history of the successful effort to repeal the Department shows that when the House Appropriations Committee reported the bill to the full House, no money was included to fund the Department of Education for the next year. A section of that appropriations bill mandated the automatic repeal of all statutes creating departments and bureaus not funded in the bill itself.

The termination of the Department with approximately 1 year's notice was a conference committee compromise. The House had wanted to discontinue the Department by refusing to appropriate money—the course of inaction urged by grams. Even better, do not authorize them in the first place.

In support of the repeal, Representative Washburne stated the question before the House—

> The question for the House to decide is whether at this time, when our people are crushed to the earth with taxation, when so many in various branches of labor are without employment, we shall foist this Department permanently upon the country at an annual expense of thousands of dollars.

In 1979, we substitute the word "billions" for Representative Washburne's "thousands" and we have fairly characterized the issue.

Representative Theodore M. Pomeroy of New York had perhaps the most succinct summation of the compelling need for repeal of the Department—

> This is a barnacle that has grown on the ship of State, and the quicker we scrape it off the better for the Government and the people.

As we consider this bill, we should bear in mind the statement of Representative John F. Farnsworth of Illinois in support of the 1868 repeal. Representative Farnsworth addressed the issue of where the major responsibility for education in this country properly lies—

> Education must start from the root, from the home, with the primer and the spelling book. Education must be patronized by the States, by the establishment of schools, colleges, and institutions of learning. They must be the custodians of the education of the children of this country and of the children of a more advanced age. . . . A Department of Education located here in Washington cannot be the custodian of educa-

tion; nor can such a department, it seems to me, be of any sort of advantage to the country.

A thorough examination of the legislative history of the establishment and the repeal of a Department of Education well over a century ago demonstrates that Members of the 39th and 40th Congresses were clearly concerned, as we are in the 96th Congress, about expanding the size of bureaucracy, about spending tax dollars unwisely, about establishing a mechanism which could ultimately lead to complete Federal control of education.

The Federal Government has a limited—repeat, limited—role to play in aid to education in the country. We have some good education programs going. Many could stand a great deal of improvement for the sake of economy and efficiency. However, giving education a Cabinet-level department all of its own is exceedingly dangerous. It will not solve the problems; rather, it will add to the existing problems and undoubtedly create more.

From 1867 to 1979, times have not changed as much as we think—or would like to think. To establish a separate Department of Education in 1979 would be as unwise and ill-advised as it was in 1867. If this legislation is enacted, many of us—perhaps even some of the supporters of this bill—will be back here next year or the year after that arguing, as Representative Pomeroy did 111 years ago, that we ought to scrape this barnacle off the ship of state, for the good of Education. I will leave the pleading to others. Instead, I want to offer a little warning.

In the First Book of Kings, Rehoboam, son of Solomon, tells the people of Israel:

> My father chastised you with whips, but I will torment you with scorpions.

So it will be, I promise, if the House of Representatives assents to the creation of a Department of Education.

Let us be candid. All over Washington, it is commonly expected that the Carter administration will fall next year, perhaps before a Republican challenger. All over Washington—on the Hill, in the bureaucracy, among journalists and activists of all sorts, everywhere but in the White House—people are assessing the real possibility of a conservative victory in 1980.

If not in 1980, then eventually. And when it comes, this is what will happen to a Department of Education.

First, a conservative Secretary of Education will be appointed who will make the NEA wish its pet Department had never been born. In fact, I may apply for the job myself, if SAM HAYAKAWA, Phyllis Schlafly, and Clint Eastwood do not want it.

I trust, however, that no Member of the House would vote for the Department just to get rid of me.

Second, that future Secretary of Education will use the Department's regulatory, investigatory, and funding powers to transform American schooling—the right way.

Conservatives passionately believe in to any school district that forces teachers to join a union against their will.

The same goes for districts that discriminate against teachers through quota systems in hiring.

The same for districts which refuse to cooperate with welfare authorities in tracking down runaway fathers.

The same for districts which violate parental rights by denying public screening of teaching materials, as in sex education courses.

If there is a Department of Education, Federal funds will one day be denied to schools that violate the separation of church and state by indoctrinating students with the religion of secular humanism. We will have departmental guidelines to purge it from the schools of America.

Likewise, funds will be denied to schools that violate student rights by forbidding voluntary prayer in classrooms.

No Federal funds will go to schools that discriminate against able teachers by requiring meaningless coursework in college departments of education.

And there will be no money for school districts that violate parental rights by forbidding the education of children at home.

A school district will never by eligible for a dime from the Department of Education unless it enforces local laws against strikes by teachers. Uphold the law or lose Federal funds. Just imagine the impact of that DOE regulation.

If anyone doubts these predictions,

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the Government, but more importantly, for the good of the people.

The better course is to defeat this legislation and not let the barnacle creep further onto the body politic. The Federal Government has no business centralizing education in a manner contrary to the constitutional and traditional system which reserves to State and local governments the primary responsibility for the quality education of our children.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. FOUNTAIN asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair may not entertain that point of order because there is no question pending.

Mr. WALKER. Mr. Chairman, I move to strike the requisite numbers of words.

(Mr. WALKER asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Maryland.

(Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Chairman, I rise in opposition to this ridiculous monstrosity and urge a no vote.

Mr. Chairman, I will not plead with my colleagues of the House to reject, once and for all, this ridiculous Department local control of local schools. But—by Califano—I promise you: If the Congress fashions an instrument for federalizing education, then conservatives will soon seize that tool and use it to pry our schools out of the hands of liberalism.

Let me be specific, so that my liberal colleagues will understand precisely what they will soon be voting on.

If there is a Department of Education, I promise you, a conservative administration will, in a few years, direct its research and discretionary funds to support statewide voucher systems for public and private schools alike.

It will fund mostly basic education programs.

It will fund programs in free enterprise education, perhaps administered by local chambers of commerce.

It will fund the revival of old-fashioned track systems, which allow serious students to learn, for a change.

It will finance the development of high-discipline schools for problem students, administered with corporal punishment instead of social workers.

If there is a Department of Education, its investigatory power will be wielded to expose the classroom fraud of teacher incompetence. And that—I promise—will be the final exam for many members of the NEA.

It will investigate the ripoffs of Federal funds by university departments of education and the sweetheart deals between public school systems and teacher colleges.

If there is a Department of Education, its regulatory authority will be used—I promise you—to deny all Federal funds they should recall the Buckley amendment of 1974—the Family Rights and Privacy Act, which has tied colleges up in knots—and the successful Hatch amendment of last year, which denies Federal funds to schools which engage in psychological testing without written parental approval.

You see, conservatives have learned that, if there is going to be regulation, it will be our regulation.

I hope my liberal friends in the House will ponder that lesson. Conservatives do not want this hideous Department of Education. We want local control of schools. But if the Department is created, against our will and against the wishes of the American people, then, I promise you, it will soon be in our hands, the hands of the American people.

And we will then administer it in such a way as to make the NEA and all of liberalism yearn for the whips of old to escape the sting of our scorpions.

I do not want that to happen. But I cannot stop it alone. That is why I have made these remarks unusually frank: So that, if fetters are forged for American education, there will be no doubt who was responsible for beginning the bondage.

Mr. WALKER. Mr. Chairman, as this debate draws to a close I would like to take a brief opportunity to thank the Chair, to thank the chairman of the Committee on Government Operations, the ranking member and all of our colleagues for their indulgence as we have tried as the opposition to address what we think are some important and even vital issues with regard to this Nation's future. That is really what education is all about. Education is all about the future.

When I first got involved in education as a teacher, as someone who was active in the local education associations, and working in the field of education, I did so because I believed that this was the place where this country addresses what is best about its future. I think that is what we ought to be thinking about as we address this legislation in this body. We should be thinking about the future. We do have a variety of problems of the present, today's problems that are right in the Federal programs related to education. Those are problems I would submit to you that can be addressed in a variety of ways.

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There is not just one solution to those problems. There is not just a departmental solution. There are a variety of solutions available to us. If we look at those problems and we decide that in effect we should do something, I submit to you that the Department is not the best route to go, because the Department is an irreversible decision toward the future. When we make an irreversible decision, I think we have a duty to take a look at what we are doing. What does that decision involve?

Well, we are told it is a decision about efficiency. Yet time and again it has been pointed out in this debate that we are really talking about more bureaucracy, more Government power, more regulations, more programs, bigger and bigger Government, and that adds up to in the practically every imaginable issue in the name of education, and that is what is going to continue to happen with the Department.

Look through your "Dear Colleague" letters and look through the letters that you have gotten, particularly from outside this body, and you will find that the letters, both pro and con, are a compendium of special interests with axes to grind in education. That, I would say to you, is politics at its rawest and most cynical, and that is what we are going to have as a continued aspect of education in this country if we pass the Department.

Education, in my opinion, is this country's best hope for the future. It deserves much better than this Department and the things that will grow from this Department. The way to assure that future—a better future—is to reject this Department.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the zero hour is approaching. That hour means whether or not we are going to establish a separate Department of Education.

I rise to oppose the separate Department of Education because this newly created Department is but a shadow of what a real Department of Education should be. It excludes most of the educational activities that should be consolidated, speaking in terms of management and efficiency.

Secondly, there are a number of quota amendments must ask themselves what is the difference in terms of taking a contrary position of not supporting the Mottl amendment against busing and supporting antibusing in this separate Department of Education bill.

We are very contradictory and very inconsistent.

If deep down in our guts we recognize that the espousal of equalitarian principles in education for the children of this country is important, we cannot in good conscience stand here today and vote for a bill that has integrated into it all of these anticivil rights amendments and then vote for the bill under the presumption that when we go to conference perhaps said amendments will be removed in conference.

How dare we make that kind of presumption? Rather, let us stand on our individual consciences and vote on the merits of the legislation and recognize that we cannot support this measure as it is currently written.

I would hope that this measure would go down to a resounding defeat in this House.

I think that the hour has come when we have to stand up and be counted. If you want to vote for the separate Department of Education, even though it includes antiaffirmative action language, antiquota language, go ahead and vote; but do not seek weak excuses for your actions here today. For a number of years many of us have fought to really try and bring about the equitability of educational opportunities and final analysis less education, because the more time educators are spending doing Federal Government paperwork, the less time they are spending with the children.

We are also promised that this is a debate and a decision about an educational focal point. Well, I submit that when you focal point education in the Federal Government that what we are doing is politicizing education, because that is the end result of having a political focus is a politization of the process. That is the most detrimental thing possible in the field of education.

The relationship between teacher and child will cease to be the prime theme of education in this country. It will be replaced with programmatic and bureaucratic concerns, which in turn will be subject to political manipulation.

Our colleagues in the Senate, Senator HAYAKAWA of California and Senator MOYNIHAN of New York, addressed this in a letter to each of us the other day in which they pointed out:

> Federal education officials will be subject to political and ideological tests. Education budgets and appropriations will be linked to electoral support. These tendencies cannot but extend to state and local levels as well. This is the result that supporters of federal aid to education over the past two decades have told us will not happen. Now it will happen in the guise of giving education increased stature in Washington.

That is a fear. If you do not think that the process of politization of education is a problem, I submit to you: take a look at what has happened in this debate. In this debate we have addressed amendments that have been attached to this bill which should make many of us in good conscience recognize and realize that we cannot support this Department. Some of us are moving in the direction that perhaps when we go to conference these amendments will be removed. When we look at the vote in terms of the Walker amendment, 277 to 126; the Ashbrook amendment, 227 to 135, we know fully well that this conference that we will convene will probably have instructions from the House.

In good conscience, if one is interested in the equitability and enhancement of educational opportunities for all children in this country, one cannot look for some mechanism to cover up any vote that will be detrimental to the needs of children. The insertions in this legislation include all of the things that through the years many of us have fought for in order to give children equality of educational opportunity.

This Department will also tend to politicize American education more completely and irrevocably than ever before. We will have Federal education officials being subject to all kinds of ideological and political tests. We will be minimizing the roles of local and State education officials; we recognize that the States are responsible for the educational policies of the children in this country.

I think that if we are looking for excuses in order to be able to support this Department, we must be honest in the process and recognize that those who will support this Department, the antibusing, the antiaffirmative, and the anti- a Department that leaves out the majority of educational activities in this Nation cannot really be a separate Department of Education, a Department that has been put together in terms of strictly a political approach, something that had to be carried out irrespective of what was put into this bill. The fact is that some lobbyists for the separate Department are spreading stories that they are going to make a Hispanic person the head of the Department. They are going to make a black person the head of the Department and all kinds of excuses and devices were used in order to secure the votes necessary for a bill that was not really popular.

Let us not vote for this measure on the backs of the children of this country. I beg of you, if you believe in the consolidation of education, then let us have a separate Department of Education that is going to include all of the educational units that are proliferating in all of the different units of the Federal Government. Then and only then can we say we have consolidated and bring about a real separate Department of Education.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DELLUMS asked and was given permission to revise and extend his remarks.)

Mr. DELLUMS. Mr. Chairman, I stand here suffering from the occupational hazard of being a Member of Congress: that is, I am plagued by extreme frustration in that the alternative that I would like to express myself on, unfortunately is not before us. I wish very much that in a few moments we would be addressing ourselves up or down on the concept of whether or not there ought to be a separate Department of Education. If, indeed, we had that vote occurring in the next 30 minutes, I would like to share with you my thoughts with respect to that.

I have listened with great attention, rapt attention, to the debate that has occurred over a number of hours and a number of days and a number of weeks with respect to this bill.

I find myself in a rather interesting place. I am probably one of the few people enthusiastic about the development of a Department of Education. The overwhelming majority of people who have taken this well from whatever vantage point, on the number of amendments that have been before us, requiring our judgment, have been people who oppose the concept itself.

I would suggest to my colleagues that many of the "mischievous," depending on one's perspective, amendments that are now in this legislation were offered by people who are unalterably and unequivocally committed to opposing this legislation in its initial form.

☐ 1300

The basic concept is something that was appalling to them.

I think that the basic concept of a Department of Education is, indeed, worthy of support. Why? Education is the largest and most significant and important function that this country engages in. It seems to me, as an adult, as education and skills and training to our young people.

The Secretary of HEW has too much to do, but the argument that education should not be put in a Cabinet-level position is absurd, because it already is. The point is that the person charged with the responsibility has too many functions.

If the Members do not believe this, I suggest they ask themselves or ask the President—and I have asked people in the White House under three Presidents, Nixon, Ford, and Carter; I have asked all of them this one question—how many times have they been in a Cabinet-level position with the President of the United States where the issue of education, other than the Bakke decision or busing,—because of its political ramifications as an issue of educational policy for the children of America, had even been discussed at a Cabinet meeting.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. The interesting response, Mr. Chairman, I will say to the Members of the Committee, is that on each occasion the answer was "never."

Consider the incredible mind-boggling aspects of that. The largest function in society is education and our most important resource is our children. Yet an educational policy has never been discussed at a Cabinet-level meeting with cantly before the American people because our children unfortunately in this society are not perceived as our No. 1 priority and education is not perceived as our No. 1 priority.

We engage in the folly of politics dealing with fringe issues that have nothing to do with our responsibility as adults and parents and leaders in this Nation to project and give tomorrow to the children and give them the proper values, the culture, and the skills in order to function.

No Member on this floor can take the well and effectively argue, I assert to the Members, that education has been lifted to a lofty level by the Secretary or by the President of the United States or even by the media that asks questions at an appropriate press conference.

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. DELLUMS. Mr. Chairman, I would ask the gentleman to please let me finish, and then I will be more than happy to yield, because I think we ought to spend a little time discussing this matter.

Mr. WYDLER. I will try to answer the question the gentleman propounded, if he will yield to me.

Mr. DELLUMS. Mr. Chairman, I have already answered my distinguished colleague. I will be more than happy to address him later. Other Members have taken a few moments as spokesmen on this bill. We have debated this bill over a number of hours and on a number of days, and as a representative of a certain than it now has. If the gentleman thinks that HEW—and the "E" is already at the Cabinet level, education is already in the Federal Cabinet room—but if the gentleman thinks that Califano and HEW are doing a good job, then vote against this bill. I do not.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentlewoman from Illinois.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I associate myself with the gentleman's remarks, and I rise in support of this bill.

[Mrs. COLLINS of Illinois addressed the Committee. Her remarks will appear hereafter in the Extensions of Remarks.]

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if we could attempt to bring this debate and the dialog and the discussion back to its fundamental purposes.

The issue before the House really does not have a lot to do with the dialog in the last 20 minutes. We have a question of administrative responsibility. We have a question of organizational structure. I am the first to admit that it is a very, the Ash Council.

First, Departments should be organized around broad missions and should seek to integrate the professional skills and governmental functions necessary to accomplish those missions.

Second, the number of Departments should be reduced.

Third, Departments should group similarly into programs together to avoid the need for excessive coordination and permit decisionmaking on all issues relevant to their mission.

And fourth, departments should not be perceived primarily in Government for one profession or one clientele group.

The Heineman Commission said, and I quote:

> Efforts should be made to reduce, merge and realign the number of departments substantially in the grip of parochial interests and resist proposals to create additional departments likely to be dominated by narrow, specialized interests or special clientele.

What all three of these commissions recommended was that we merge departments. For example, Labor and Commerce should be merged into one Department of Economic Growth and Productivity. There should be a Department of Human Resources. We merge HUD and other elements to create a Department of Community Development.

We merge Agriculture and Interior into the Department of Natural Resources. Those are the logical things that should be done.

The establishment of a single-issue Department runs counter to every accepted theory of administrative management over the past 50 years.

If this were to pass, and I do not expect that it shall, it would be a major mistake; and, if it passed, 3 years from today every person in this Chamber would regret it. We would all recognize this would be one of the most serious mistakes this institution could make.

I urge my colleagues to assume the responsibility of their office and reject the proposal for a separate Department of Education.

Mr. BROOKS. Mr. Chairman, I rise in support of the legislation and move to strike the requisite number of words.

Mr. Chairman, we are coming to the end of a long and arduous debate on this bill. Some might say it has been unnecessarily long. No one can say that we have not thoroughly and completely considered the question of establishing a Department of Education. I am sure that every possible argument that could be raised on both sides has been raised. The opponents have taken their best shots at it. They have been firing away for days. I am glad to say that we are still here, that we have come out of it with the basic structure of the Department still intact.

After all of the talk and all of the voting, that is what we have here is structure. We have not added a dollar or changed a comma in any education program. We have not touched education policy. We have created an organization, building it out of a wide array of existing programs. I am convinced that in this new organization the programs will be better managed, better coordinated with other programs, and

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. A third specious argument made against this legislation is it means more government and more bureaucracy. The fact of the matter is it means less government and less bureaucracy.

The President of the United States has sought to reorganize into one agency programs which are scattered all throughout Government today. As I have said earlier, if we think and are happy with the way HEW is spending the $15 billion of taxpayers' money today, then we should vote against this legislation and support Secretary Califano's efforts, support the Office of Education in what they are doing today. I happen to think it is a mess. This legislation will provide accountability. It will actually limit the number of people now in the bureacracy for the first time. For the first time we will have a smaller agency rather than a larger one; we will have a legislative veto over all of the regulations that come out of this bureaucracy; we will be cutting back, not increasing Government.

When it gets all over with, the last word I think is the word that relates to whether or not this Congress, through accepting a reorganization program of the President sent to the Congress, is willing to stand up for the young men, the young women, and the boys and girls of America and place them in the forefront. Let us have a better, more accountable, more efficient, more economic education system run at the local level. All the cumbersome, burdensome procedures in the present Department can be eliminated in 24 hours by Executive order.

The CHAIRMAN. The time of the gentleman has again expired.

(At the request of Mr. ROSENTHAL and by unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. ROSENTHAL. If the gentleman will continue to yield, if you want to raise the level of representation of the Office of Education, the President can do it by reorganization plan and create an Undersecretary for Education. All of the things that are presently problems, and I agree they are, can be corrected by Executive order.

The seriousness of creating a Cabinet level department, 14 of them in 200 years, it should not be done unless there is an overwhelming case, a case that cannot be pierced as easily as we have seen here on the floor today. I know we disagree on this and I have great and enormous respect for the gentleman's knowledge and judgment. I just cannot believe we need this new Department.

□ 1340

I just cannot believe that the gentleman has come to the conclusion that he has.

Mr. LEVITAS. I appreciate the gentleman's contribution. I know we disagree on that issue. I respect the position the gentleman has taken, and I respectfully believe that we will end up with less bureaucracy, more efficiency, more

It has been said that this bill is not a prescription for a Federal takeover of education or a national policy on education. However, the entire thrust of the legislation leads toward increasing Federal involvement in education. After all, it makes no sense to establish a multibillion dollar Department and not give it the means to influence its area of responsibility. A separate Department of Education, employing more than 24,000 bureaucrats and having a budget of $14.5 billion annually would soon seek to enlarge its role in an effort to justify its existence. And like all bureaucracies, it would fix itself firmly on the landscape by issuing more regulations and expanding paperwork requirements. We are already witnessing this trend in the move toward minimum competency testing in schools. Can a national curriculum be far behind?

The cost of a separated Department of Education would not be free. To cite only one example, the bill before us would create 90 new supergrade and executive positions at an average salary of $50,000 each—or a total of $4.5 million in salaries that should be spent on education programs. Although the OMB claims that 450 positions will be eliminated by this legislation, there is no evidence that this will be done or could not just as easily be accomplished without the enactment of H.R. 2444. A separate Department of Education, pressuring the Congerss and the administration for a larger slice of the Federal pie, would make it harder to limit Federal expendience with the Department of Energy, for instance, we do not believe that there is any rational basis for this assumption. There is no evidence to suggest any special Federal competence in education—indeed, many educators and parents complain that some of our problems stem from too much Federal influence and control. The creation of a new bureaucracy, with the mandate to provide Federal solutions is directly antithetical to congressional efforts to curb the power of the bureaucracy and encourage local initiatives.

Supporters of this bill point to the fact that the education industry constitutes a $120 billion public and private enterprise and is, therefore, deserving of a separate department. This proposal rejects the recommendations of every Presidential Government Reorganization Commission which specifically stated that Presidents should have fewer Cabinet officers reporting to them.

In fiscal 1980, the Office of Education is budgeted to receive an estimated $12.7 billion—evidence that education has a high priority in this country. Despite a dramatic increase of Federal dollars over the last 15 years, the problems of low test scores, illiteracy and increased violence and drug use continue to grow. We have often heard educators and parents complain that Federal money tied to Federal regulations and controls has hampered local education efforts and the impact of parents, teachers and local administrators on policymaking. If there is something wrong with our approach to education—and it is clear that everying bipartisan support given the landmark Civil Service Reform Act of 1978 was a positive and proper response to a problem of national concern. H.R. 2444 is a double negative. There is no widespread demand for this legislation. There is no justification for a proposal which will create a new Federal educational empire.

Despite the no-growth claims of its supporters, this bill will result in bureaucratic bloat. In labeling this legislation "a bad idea," a June 5 Washington Post editorial said:

> Of all the claims being made for the proposed Department of Education, the most incredible is that it would not grow.

The editorial went on to point out that the legislation would give the new Federal educational establishment more authority, more prestige and more political clout with Congress and the larger educational community. That is what this legislation is all about. To suggest that this new Department would keep the lid on personnel does not square with reality. Based upon experience, new agencies and new departments have a track record of steady expansion. The new Department of Energy is the latest example of a proliferating bureaucracy.

I could see some merit in this legislation if it reorganized and consolidated all existing education programs into the new Department. Actually, there will be important programs which will remain outside of the new Department.

We took a major step last year in attempting to make the bureaucracy more responsive and responsible to the public intervention in heretofore local education purviews.

Those who oppose a Department of Education have often argued that it will continuously grow and increase in power and influence, thus threatening local controls. Opponents argue that instead of reorganizing education programs into one Cabinet-level Department, all existing programs should be reviewed, judged, and eliminated if deemed unnecessary.

I submit that a separate Department of Education will actually enable the Congress and the administration to better monitor education programs and activities of the Federal Government so that any inappropriate actions which endanger local controls can be more readily recognized and eliminated. With present education activities spread throughout several different agencies and departments, it is almost impossible to monitor and control them at the present time.

Another often expressed objection to the creation of a Cabinet-level Department of Education is that it will eventually cost more as new programs are added. However, the inherent nature of bureaucracies to grow is more a function of Congress than the individual agency or department. All new and existing programs and expenditures will be subject to congressional oversight, authorizations and appropriations. Instead of opposing efforts to improve our education programs and activities at the Federal level, those who fear excessive Federal a parent, and as a person who believes in the future of the Nation and the future of the world and a commitment to tomorrow for our children, that we as adults have a profound societal obligation to pass on to the next generation our culture, our values, and the necessary knowledge and skills to function in society.

That is, indeed, the essence of the function of education—to pass on to the next generation. Given the significance of this function, the education of our children, what more significant moment do we have than now, this year, a year that has been defined as the International Year of the Child? Should we not make a major commitment to put in a major investment in the most precious resource we have as a Nation—an investment in the education of our young?

Mr. Chairman, why should we have a separate Department of Education beyond the statements I have just made? Some argue, why should we have a Department of Education as a Cabinet-level position?

That is an absurd argument. Education is already in a Cabinet-level position. We have HEW—Health, Education, and Welfare.

The point that is being made is that unfortunately the Secretary of Education, not the individual human being but the office, is so preoccupied with the economics of health, the politics of health, the economics of welfare, and the politics of welfare that there is little time to focus attention upon the significant function of education in our society, passing on culture and values and the President of the United States. I find that absolutely incredible. It is absolutely incredible.

How many times have we observed press conferences with the President of the United States where anyone asked the President about an issue of educational policy that did not relate to the Bakke decision or to the busing decision, an issue of profound national policy vis-a-vis education? Never.

How many times has the Secretary of HEW held press conferences and the issue of welfare was raised? Innumerable times.

How many times has the question of health, the Corman bill, AMA legislation, or cost containment been discussed with the Secretary of HEW? There have been numerous occasions.

How many times has the Secretary of HEW, other than on a specific question dealing with the Bakke decision or court-ordered busing—which regrettably is still an emotional issue after 25 years and is still being fought out on the floor of this Congress in 1979 under the clarion call of reality when the principal issue of dignity and freedom of human beings ought to be a matter of concern in this country in 1979, and it is not—dealt with the question of education?

How many times has the Secretary of HEW been asked a question about significant educational policy? I would submit to the Members, virtually never.

The point I am making is that while education is the largest, the most significant, and the most important function in our society, the media and the politicians have not placed that issue significant number of human beings that we in this Chamber represent, I think I ought to have an opportunity to speak for 5, 10, or 15 minutes. I have not taken the well on this issue before, and I want to try to finish my point; then I will graciously yield to my colleague when I have finished.

Mr. Chairman, the interesting thing about this particular piece of legislation is that the Office of Civil Rights has a stronger enforcement mechanism built into this bill than is presently in HEW. And we must remember the most significant battle that was waged on the floor of this House with respect to this legislation was an attempt to gut the Office of Civil Rights and to gut that enforcement that is, indeed, stronger now in this legislation than it is in fact in HEW at this very moment. That battle was won because we beat that back significantly on the floor of this Congress. That is a major and an important tool.

Mr. Chairman, I will say to my colleagues that the question is: Do we have a straight up-or-down vote on the principal concept of this separate Department of Education? The obvious answer to that is "No." Over the past several days and weeks a number of amendments have been proposed by my colleagues, and there are many of them that I disagree with—some of them I disagree with vehemently and admantly—because in my humble estimation they are violative of principle and they are violative of the whole notion of civil rights and liberty and freedom and justice that many of my colleagues on the floor espouse when they talk about America vis-a-vis other nations in the world.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. So, Mr. Chairman, we are in a situation now where the basic concept is not before us. A number of amendments that challenge women, that challenge minorties, and that even challenge children are involved in this legislation.

I would suggest and I would state to the Members flat out that no Department of Education should ever come into existence with these abominable amendments attached to the development of a Department of Education designed to enhance the education of the children of this Nation. I would be unalterably opposed to bringing into existence a new agency that flies in the face of dignity and freedom and justice and basic principles.

So the question is: What are our alternatives? For those Members on this floor who came to the initial moment, the alpha of this debate—we are now down to the omega—as being opposed to the basic concept, they now have a number of reasons why they want to continue to oppose this. They have no problem: they only have greater ammunition to justify their position. So be it. They have no alternative.

For those of us who came to the floor of this House committed to the concept itself, getting away from all these abom-

back and they are still in, I and a number of my colleagues are prepared to defeat this legislation.

And, finally, I am not in any way suggesting to my distinguished colleague, the gentleman from New York, that I would pass on the buck to the President. I have never done that in the 8½ years I have been here. But I will say for the record that I think the President would be crazy to sign into law any legislation that would embody many of the amendment that have been placed into this bill by the House of Representatives—and that is a fact, and I think we need to understand it. I do not think there is any way he could sign this legislation. If he vetoed it, there is no way in the world that a two-thirds vote could be mustered in this body to override the President's veto. This bill can be killed by the Senate. It can be killed after the conference report, and if we lose on that, I am sure we can mobilize enough blacks, enough women, enough children, enough Third World people in this country, that the President, without fear or trepidation, would have no problem of vetoing this legislation.

Mr. Chairman, those are my concluding remarks. I summarize by saying that I believe in the concept: I think that it is horrible that we do not have the opportunity to address these issues straight up and down. We have amendments. I think that many of these amendments are horrible. I think we have the opportunity to go forward with the concept to see if it can be preserved. If it can-

neighborhoods, and they do not want these decisions to be taken down and decided by the President at a Cabinet meeting or by Secretary Califano or at a press conference, with some dramatic announcement. They want these decisions to be made in their local units in their neighborhoods. That is the point.

The gentleman says that there is a good reason to change that, and we should have this done at the Federal level. I think he has made the best argument, in my judgment, that he could have made against this Department of Education. If its purpose is in fact to do what he says he wants done—which is to bring all of these things, all of these matters, down here to Washington to be decided by the President at his Cabinet meetings or by Mr. Califano at one of his press conferences—I think that is just what the American people do not want. I do not think that is what the Members of this Congress want either. I think if the gentleman thought about it for a little bit of time and really considered what it might mean to his children, he would not want it either.

So I would recommend to the gentleman that he rethink his argument for this great new Department. It will probably do what he says it will do. It will bring on the press conferences, it will bring on the thinking about how these schools should be run and the decisions that should be made down at the local levels. I think the American people want them made at the local levels, and I think this House will keep it that way.

inable amendments, what are our alternatives? One is for us to kill this legislation at this moment.

☐ 1310

We have the necessary votes. There are a significant number of Members on the floor who are already opposed to it. We can join hands with them and we can destroy any opportunity to go forward. There are moments when I feel that I wanted to do that. But on sober reflection, I choose another alternative. And that alternative is to say that what we do today is only another step in what we all on this floor know is an incredibly complicated legislative process. It is my hope that the Senate will pass a clean version of this bill would indeed hold out. If the conference report comes back with these abominable amendments in it, I will fight to the last breath to oppose the creation of this Department of Education. It cannot exist in a free society. Many of us here know that. I think that it is conceivable that we can defeat this legislation any time we want to, because there are only a handful of people here who have the will and the heart and the desire to really want to be strong advocates of this idea. It is not popular. There are many reasons to knock it—bureaucracy, money, whatever. But for those of us who want to see a Department of Education, I am prepared to let it go forward to the next step, to see if some integrity can be gained in this body, in this country, some sanity that would challenge these absurd amendments that go to purpose and not legislation, in many instances, anyway, to put them out; if they come not, then I think we can definitely kill this legislation.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I thank my distinguished colleague for waiting, and I yield to the gentleman from New York.

Mr. WYDLER. I appreciate the gentleman's yielding, even at this late moment.

I was trying to make the point, after the gentleman made the point that he was personally upset by the fact that the Secretary of Health, Education, and Welfare was not holding press conferences about education and the President was not considering educational issues in the Cabinet meetings very often, and so on.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(On request of Mr. WYDLER and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. If the gentleman will yield further, the point, of course, which the gentleman fails to touch upon, and which I think is crucial here, the point that the gentleman seems not to come to grips with is the fact that the very reason that these things are not taking place is because the focus in our country on education is not at the Federal level, but the focus on education in our country is at the local level. That is the way the people who wrote the Constitution intended it. That is the way the people in the country want it to be. They want their educational decisions to be made at their school board levels, to be made by them in their communities and I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for his comments.

I will simply say to the gentleman that I agree with the gentleman with respect to the whole local perspective with respect to education, boards of education being involved in making those basic decisions.

I would simply point out to my colleague that we do have Federal legislation, the Elementary and Secondary Education Act, that embraces billions of dollars that the gentleman and I authorize and appropriate on an annual basis. The Federal Government is involved in the education of our children.

We also pass on an annual basis a higher education bill that contains several billions of dollars of Federal money. The Federal Government is involved in education. And while I agree with the gentleman with respect to the local focus, we are spending enough money at the Federal level it would seem to me, that would warrant some efficient, effective focus for education at the national level.

I am not suggesting to the gentleman at this particular moment that there is need at this moment for a nationalization of education, although I am not closed off to that question. I think that that debate and that conversation ought to go forward. But at least at this moment my answer to the gentleman is that, while I agree with the local level, at the same time we spend billions of dollars at the Federal level we cannot ignore that we ought to spend that money effectively.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I would like to underscore what the gentleman from California has just said. The gentleman is absolutely right. And the point raised by my colleague, the gentleman from New York, a member of the Committee on Government Operations, has absolutely no pertinency, no relevancy at all in this particular bill. There is not one single word in this bill that creates any more Federal presence in education than currently exists. It is an organizational bill. Indeed, there is language in this legislation which specifically prohibits the Secretary from getting involved in local education matters. There are approximately $15 billion of taxpayer money now being spent by the Federal Government in local education. I think the American public is entitled to better accountability very dull, dry subject. It is not one that lends itself to moving rhetoric and it is not one that lends itself to the high-flown kinds of considerations we have been talking about in the last 20 minutes.

My opposition to this bill is pure and simple that it is an extraordinarily and I underline the word "extraordinarily"—bad case of administrative management.

I myself am quite surprised that an administration that came into office dedicated to reforming governmental structure and improving its efficiency and quality would have even recommended this kind of an idea.

Let me tell the Members why, because those Members who have not served on our committee, as I have for 16 years, might not have had the opportunity to pay as much attention to the nuts and bolts of the administrative structure as some of us on the committee have.

□ 1230

Since the Second World War, there have been three commissions appointed to look into the organizational structure of the executive branch, and that is what this is, an organizational structure.

Each of these commissions, the first Hoover Commission in 1949, the Heineman Commission in 1967 and the Ash Council in 1971, were all appointed by Presidents bringing together great minds and experience to bear on the question of administrative organization.

All of these Presidential commissions joined essentially in the four common conclusions enumerated in the report of

The Heineman Commission appointed by President Johnson addressed itself to the very problem that we are going to have to vote on in the next few minutes. They said, and I quote:

> We believe that HEW should be maintained as one executive department responsible for a wide range of social service programs. The possibility of coordinating a large number of related social programs under the executive focus of a strong department head is the major reason for resisting proposals to create additional executive departments.

Putting it into its human interest terms, the editorial in this morning's Washington Post summed it up completely. We do not need more departments or more Cabinet-level offices. We need fewer Cabinet-level representatives and a system in which decisions are made at a lower level and options are brought to the President by fewer and fewer people.

The CHAIRMAN. The time of the gentleman from New York (Mr. ROSENTHAL) has expired.

(By unanimous consent, Mr. ROSENTHAL was allowed to proceed for 2 additional minutes.)

Mr. ROSENTHAL. If we are committed, as I know all of us are, to running a smoothly efficient, well-organized Government, I plead with my colleagues, do not create a 14th Department in this country, dominated by a national single-issue constituency and one that runs counter to every accepted theory of administrative management.

with the needs of schools and institutions that benefit from them.

We will have a more streamlined operation that will save us money down the line by eliminating the duplication and redtape. We will have done what we always talk about doing; that is, just to make the Federal Government a bit more efficient, a bit more responsive.

Now before we vote, I would like to thank all of my colleagues who participated in this debate. I think it has been good, healthy, and enlightening, sometimes a little tiring. I want to be honest with the Members.

I would also like to thank our chairman who has presided with great patience and skill through these many days and hours. I am sure he shares with me a great sense of relief now that we have come to this moment of decision. So, let us proceed to that decision.

On our final vote of the matter, let us create a Cabinet-level Department of Education, a Department that will enable us to better serve 100 million men, mothers, fathers, parents, children, and teachers; a Department that will enable us to better manage the Federal Government's $14 billion worth of expenditures for education that will be covered by this Department; a Department that will enable us to respond, to respond more readily and more sensitively to educational needs more quickly; a Department that will enable State and local governments to deal with the Federal education establishment more directly and with less redtape, a Department that

of days to deliver a letter from Boston to Philadelphia as it did 200 years ago.

□ 1330

I am saying to the Members we have to trust the judgment, the wisdom and the morals of the people back home who know best what is better for our youngsters. I can tell my colleagues this, if this bill passes "school is out—and so are the kids." It is the kids that really have a stake in this.

Let me ask this question: Where was the first kindergarten in America, the first junior high school, the first school for visual education, the first coeducational college, the first summer school, the first adult education, the first school for the blind? Every one of them came out of the State of Ohio, at the local level by educators who were inspired to do something for those who came after them.

I can only say that I cannot see us doing something like passing this measure when the mood of the public certainly is that it does not want another bureaucracy. They do not want to see the teachers of America nationalized whereby one blow of a whistle would put teachers on strike and paralyze every classroom in America. I think the time now is to say no, and to do it for the next generation, not the next election.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

(Mr. LEVITAS asked and was given permission to revise and extend his remarks.)

feat of this legislation just because the AFL-CIO is advocating its defeat. That is not the issue.

The other issue we keep hearing about, my good friend from New York has spoken to it, my good friend from Ohio has just spoken to it, is the fact that somehow this is going to deprive local education of its responsibilities. If this legislation accomplished that purpose, I would be opposed to it. But the local school boards and local school superintendents, not just in my district but across the country, support this legislation because they know it means stronger and better educational opportunity for the boys and girls and the young men and women in America. There is no question about that. Written into this legislation are specific prohibitions against the new Department's having any control over curriculum, personnel, libraries or anything else. Local control is maintained.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman.

Mr. WYDLER. I would not bring this up, but the gentleman spoke during the time of the gentleman from California. I commented on the gentleman from California's remarks and the gentleman from Georgia was present when he made those remarks to the effect that the new Department of Education would give direction and control from Washington. The gentleman from Georgia says the bill will save the American taxpayers an estimated $100 million.

I urge my colleagues to support this important legislation.

Mr. GUYER. Mr. Chairman, I move to strike the last word.

(Mr. GUYER asked and was given permission to revise and extend his remarks.)

Mr. GUYER. Mr. Chairman and members of the committee, as the chairman said, it is very late. Anything said now is about as important as the conversation before the good night kiss on your first date.

I am sure that not all of us want to take our allotted amount of time. I would like to have heard the gentleman from California even speak longer, but as it figures out, at 15 minutes apiece, it would take 108 hours for all the Members to have equal time.

I think the purpose of education, briefly put, is to help every child in America drink at the fountain of knowledge. Under this bill they will be lucky to gargle.

I have never seen a bill, with so many good people attached to it, that was so bad. As a matter of fact, it is like a patient who is wobbly from vivisection, amendicitis, transfusion, and all that goes with it. The kindest thing we can do is give it chloroform.

I really believe that traditionally and historically education belongs at the local, State, and community level.

Let me remind my colleagues that Washington creates nothing. It never has and never will. It takes the same number

Mr. LEVITAS. Mr. Chairman, as we conclude this debate there are just a few points that I think we need to remind ourselves of. I do not have the ability, nor would I attempt to speak with the fervor and eloquence as my colleagues from New York, California, Pennsylvania; but this is an important measure and it does deserve the full consideration of this House.

As a member of the subcommittee and the full committee which considered this legislation, and as a Member of this body, having sat through I think the entire debate over these last few weeks, I have given much careful consideration to what some of the real issues are and not what some of the phony issues are.

One of the issues that has been called to our attention is the fact if this agency is set up it will be controlled by NEA, the National Education Association. In fact, if we support this legislation we are doing it just because NEA is supporting it and that is presumed to be bad. But nobody then tells us with equal fervor and with equal vigor that the American Federation of Teachers, the AFL–CIO, opposes this legislation. So I guess we have to choose if that is the way we make our decisions, do we support NEA or the AFL–CIO?

I do not think that is the issue. I could not care less whether the NEA or the AFL–CIO favor or oppose this legislation. The question is on the merits of the legislation, does it have worth? I am sure that many of my colleagues on both sides, and especially some here on my left, would not want to advocate the de-

does not allow this. I would say that is a good wish, the gentleman hopes it does not allow that, but I think he realizes as well as the rest of the Members of this House that the practical effect will be what the gentleman from California said, which is it will give new Federal control of education whatever the words of the statute might be. I would only point out to the gentleman what the Supreme Court recently said, that the Congress, even though it said it was against busing for racial purposes, really was for it because the Court said that was the purpose for which we passed a number of bills. So it is likely to be what the Supreme Court says we intended to do here today rather than what the gentleman says we intended to do here today.

What the Court will probably say is we intended to set up a Federal Department of Education to give Federal control to education. That is probably what they are going to say. Regardless of what the gentleman would hope this bill might do, the practical effect of it will be to federalize our educational system. But I hope the gentleman realizes that, regardless of what the words of the statute might be.

Mr. LEVITAS. I thank the gentleman for his contribution. I think the words of the statute are very clear on that point. I am sure by this colloquy the gentleman from New York would not want the Court to believe we are trying to take away local control because this legislation does not do that in the most explicit language possible.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

and to the extent that the Federal taxpayers have contributed to it, we will get more for the dollars and a better education for our children.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. ROSENTHAL. I think the gentleman made some very interesting arguments. I wonder if the gentleman could address himself to the point that I tried to make, that all three Presidential commissions dealing with reorganizations of Government have recommended against creating a separate Department of Education, recommended reducing the number of departments. How does the gentleman address himself to that problem?

Mr. LEVITAS. As I told my colleague from New York when he made his presentation before our subcommittee, I thought his presentation, including that point, was one of the most interesting because it raised some important issues. But as I listened to the testimony and as I heard what was going on in our Government today with respect to education, I concluded that this is no more a single-purpose agency or Department than the Department of Agriculture or the Department of Labor. There are important functions for spending Federal dollars.

Mr. ROSENTHAL. If the gentleman will continue to yield, both of those Departments should be reduced or eliminated and merged. That is the problem.

One other point the gentleman made, economy in Government, and better education.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Chairman, I have spent considerable time studying the merits of H.R. 2444 and after a careful analysis of its long-term implications, I have come to the conclusion that enactment of this bill would be a serious mistake. I know the supporters of this legislation to create a separate Department of Education believe it will lead to an improvement in education in our country, but I do not agree. In my opinion, a separate Department is not the answer to our country's education problems nor will it provide the appropriate forum to address these problems. My reasons for taking this position are simple.

For over 200 years the States have enjoyed the legal right and responsibility for education. From this wholesome tradition has evolved a diverse, pluralistic, and democratic system of education that is the envy of the world. The clout of a National Department of Education would shift this responsibility from local educational authorities to a centralized Federal agency. The concentration of all power and programs within the Federal Government would dominate the States and local school boards. Soon we would be at the point where we would have a Federal policy in education.

ture growth and achieve a balanced budget. Clearly, this legislation is out of step with the expressed views of the American taxpayer for less costly Government.

Supporters of this bill champion it as a vehicle to focus greater Federal attention on education. We wish to point out that as H.R. 2444 is written, 96 percent of education programs now outside HEW would remain outside the Department of Education. Also, it has been freely acknowledged by certain groups in the education profession that a major goal of a separate department is to increase Federal funding for education from its present 8 percent to closer to 33 percent. However, there is no lack of Federal funding for education and whatever shortcomings there may be in education today, we do not believe it can be traced to a paucity of Federal dollars. Federal spending for education has grown from $1.237 billion in 1962 to an estimated $12.7 billion in outlays for HEW's education division in fiscal year 1980. We have no reason to believe that this commitment will not continue under the present organization structure of Federal education programs. Indeed, Federal accomplishments in education have advanced substantially as witnessed by the enactment of such legislation as education for all handicapped children, title IX, sex discrimination in education, increased student financial aid programs, and an expanded title I program.

The case being made for a Cabinet Department of Education is that it would produce more effective and economical program management. Given our experithing is not right—then we should work to improve the services we have, streamline the Office of Education and reduce the paperwork it creates. The issue before us is whether the Federal Government can or should meet education needs. It should be our goal to review, consolidate and coordinate our national efforts and promote local initiatives by increasing the amount of discretion which local school districts have to spend Federal dollars.

To support a Department of Education, one must believe that education is a primary function of the Federal Government, that bigger is better, and that more costly programs will be effective and efficient. In my opinion, supporters of this legislation have failed to make the case that a separate department will benefit our schoolchildren, or that it is the kind of solution demanded by the American taxpayer who complains about Federal dominance in education, high taxes, and inefficient and unresponsive government.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

(Mr. DERWINSKI asked and was given permission to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Chairman, I would like to state my reasons for opposing the bill.

In rejecting this legislation, we have a wonderful opportunity to reaffirm our commitment to the taxpayers that the Federal Government will perform efficiently and effectively. The overwhelmlic. This bill is a step in the opposite direction. It encourages bureaucratic sprawl and ignores the public need for a lean and trim Federal operation.

In addition, I would like to make a few points. First, the dêbate over this proposal has now revealed it clearly to be a politically motivated ploy. Second, Federal education officials will be subject to political and ideological tests. Third, the current proposal leaves out more Federal education activities than it includes. Last, nothing in this proposal contains any promise that anyone will learn more, or faster, or at less cost, while in school or college.

Mr. Chairman, for all these reasons, I have decided to vote against this bill.

● Mr. HILLIS. Mr. Chairman, I rise in support of H.R. 2444. My decision to support this measure was not arrived at lightly. For some time now I have weighed the arguments both in favor of and opposed to the creation of a separate Department of Education. As one Member of this House who has campaigned for, and is committed to reducing the Federal bureaucracy, I believe a separate Department of Education will better enable the Congress to properly monitor the Government's education activities.

Certainly, if I felt that a separate Department of Education would decrease local control over education, I would be the first person to oppose it. Local control of our schools has served this country well and must be maintained. However, the proposed bill before us has explicit language in it prohibiting Federal controls should consider reforming congressional activities instead. Of course, it is much easier for us to blame the nature of bureaucracies for the growth of the Federal Government than it is to look at our own actions and admit to the inability of Congress to show restraint in considering new programs or spending levels for existing programs.

For those who remain unconvinced that the new Department of Education will not exercise restraint and protect local controls, I suggest a close reading of the bill. Specifically, section 103 states that—

> No law relating to a program administered by the Federal Government shall be construed to give the Secretary of Education or any other Federal officer or agency the authority to control, direct or supervise the curriculum, program content, selection of library resources or books, administration, personnel or accreditation of any public or private educational institution, except to the extent specifically authorized by law.

Further, H.R. 2444 gives Congress the opportunity to veto within 45 days most rules and regulations promulgated by the Department with passage of a concurrent resolution by both Houses. This provision extends congressional control beyond the status quo over education activities.

Another improvement which will enable better congressional oversight is the annual report mandated by section 435 of the bill. Currently, it is almost impossible to determine what exactly the Federal Government is doing in the area of education. An annual report submitted to Congress will allow the appropriate committees to better understand Federal involvement in education.

Clearly the creation of a Department of Education will make Federal education programs more accountable to the Congress. It seems logical to me that if we are to protect local interest and control over education activities, it is imperative that the Congress know what those activities are. To do that in an efficient manner, a Department of Education is indeed warranted. Therefore, I hope that this body will pass H.R. 2444 and begin for the first time meaningful congressional oversight and control over Federal education programs and activities.●

● Mr. NEAL. Mr. Chairman, I support the bill H.R. 2444 because I believe in our young people, and in the need to provide them quality education, and in this Nation's ability to help fill that need.

I believe further, Mr. Chairman, that we are not fully meeting that responsibility at the present time. The Department of Health, Education, and Welfare is not managing well the Federal education programs authorized by Congress, and those of us from North Carolina know that quite well.

The first step toward correcting the problems that exist with education at HEW, in my opinion, is to remove education from HEW. There is, of course, a certain resistance to that idea. Education resides in a well-entrenched bureaucracy. As a matter of fact, it is all but lost in the bureaucratic maze of a Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system, over any accrediting agency or association, or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by federal statute. Regulations issued by the Department of Education shall not have the standing of a federal statute for the purposes of this section

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law

And so we find, Mr. Chairman, that we have very wisely limited the authority of the Department and have reserved for ourselves the right, through congressional veto, to correct any evil that might be wrought by untimely, unreasonable, or counterproductive regulations.

HEW might be called the mother hen which has laid more eggs than she can incubate. Though she may have laid 40 eggs, and can only hover over a dozen or so, she guards all the eggs jealously. She

The bill is not perfect, because we are not perfect. It does not solve all of education's problems, because all those problems do not reside in Washington. The education of the child begins in the home, and continues throughout the formative and educative years in the community. I believe, however, that this bill removes some of the stumbling blocks that have been put in the pathway of our children; and I believe it more accurately correlates Federal authority with Federal responsibility than does the system which at this time seems woefully inadequate and out of balance.

As a cosponsor of the bill, I intend to vote for it and I urge my colleagues to do likewise.●

● Mr. EDGAR. Mr. Chairman, I voted in favor of H.R. 2444, the bill creating a Cabinet-level Department of Education because I believe that the existence of such a department will help to get important education issues the attention which they deserve at the national level. I have serious reservations about several of the amendments to the bill which were adopted by the House prior to final passage, especially those which are fundamentally anticivil rights in their thrust. Many supporters of the Department of Education have argued that because the Senate version of the bill contains none of these objectionable amendments, it would be advisable to let the conference committee of the two Houses work to remove them.

The corrected version of the legislation could then be enthusiastically supported single department whose budget is larger than all but two entire governments on Earth—the United States and the U.S.S.R. And although education forms one of the three words in the HEW title, it commands only 8 percent of HEW's budget, and we might reasonably assume that it gets no more than that percentage of its effort and attention.

More than that, Mr. Chairman, it would seem that most of HEW's educational activity is involved in printing and distributing regulations, and in monitoring, if not harrassing, local and State school systems about compliance. I submit that its activities are more negative than positive, and I make that suggestion with full recognition of its legal obligations, congressional mandates, and Supreme Court decrees. The Department, in my humble opinion, if so far out of touch with the realities of education—north, south, east, and west—that its ability to do more than hold a heavy hand over every school system in the country has been seriously compromised.

There are those in this body who contend that to remove education programs from HEW and place them in a new Department of Education actually would increase, rather than diminish, Federal control over education. Mr. Chairman, we are in the process of writing the law under which the Department of Education would operate. Now, while it is still untainted by regulatory tampering, I would like to quote from the bill before us:

> Section 103. (a) No provision of law relating to a program administered by the clucks and cackles and preens and tries to group all the eggs beneath her. And every time someone tries to take any egg away, her answer to her frustration is to lay another egg.

Mr. Chairman, the Committee on Education and Labor has pointed out the terrible problems experienced by local school boards in dealing with the present array of Federal education offices. It now takes an average of 519 days for routine education regulations to clear the 26 offices which have to approve them. Twenty-six offices, Mr. Chairman. We are wearing out some of the best educators in the country, at the State and local level. No wonder they are crying for us to streamline the Federal education processes. This bill does not entirely cure the problem, but it is a start. It eliminates 11 of those 26 steps, and probably would cut in half the time required to clear regulations.

The bill before us would eliminate 800 positions by the end of the Department's first year of operation. Even more telling, I think, is the Congressional Budget Office's estimate that it would save $100 million a year in tax dollars. That figure, Mr. Chairman, does not take into account the savings in money, time and efforts, and frustration to local and State governments.

Mr. Chairman, the committee and its distinguished chairman, the gentleman from Texas, have worked long and ardously on this bill. I believe the committee has done an exceptional job of keeping the bill clean, and we have resisted, by and large, the temptation to turn its horse into a camel.

by all House proponents of the new Department. I have decided to give the conference committee an opportunity to make these changes, and if the revised version of the bill is acceptable I will vote for it. If, however, the objectionable amendments are not removed I shall have no choice but to vote against the bill. As much as I believe in creating a Department of Education, I cannot in good conscience encumber the new agency with responsibilities to roll back hard-fought progress in civil rights and civil liberties. Finally, I urge everyone to read carefully the creative remarks of my colleague, Representative **Ronald Dellums**. I strongly associate myself with his remarks.●

● Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to H.R. 2444, the bill to separate the Office of Education from the Department of Health, Education, and Welfare and elevate it to full Cabinet-level status.

I am opposed to the addition of another agency to the Federal superstructure. Especially one the size of the Department proposed, with a budget of $14.5 billion, incorporating 150 current Federal education programs, and staffed by 24,000 employees supervised by a full complement of top-management supervision—one Secretary, one Under Secretary and six Assistant Secretaries. The proposed Department of Education would be larger than any of the current Departments of Commerce, HUD, Interior, Justice, or State.

There was a time when I might have believed that such a consolidation would reduce the size and cost of the bureaucracy, but precedent has not proven that supposition to be true. An obvious and timely example is the Department of Energy which, in the 2 short years of its existence, has doubled its annual expenditures from $5.2 billion in fiscal year 1977, to an estimated $10.1 billion in fiscal year 1979. The result—a national energy policy that is an ineffective mass of confusion and paperwork.

The Department of Energy is not an isolated example. Public policy economist William Niskanen calculates that creating the Departments of Defense and Health, Education, and Welfare increased the costs of performing these agencies' functions by 34 and 25 percent, respectively, with no demonstrable gains in effectiveness. He expands upon the issue stating that—

> Since the establishment of the Department of Defense, the U.S. has fought one war to a draw against a second-rate military power, lost another war to a third-rate military power, and lost its strategic . . . superiority over the Soviet Union. Since the establishment of HEW, health costs have skyrocketed, educational test scores have progressively declined, and there have been perennial demands for welfare reform. Following the establishment of HUD, our major cities have experienced fiscal collapse and continued decay. Following the establishment of the Department of Transportation, a large part of the railroad system has gone through bankruptcy to nationalization.

In response to those who say that the proposed Department will not grow, I say "baloney." A recent Fortune magazine agency can be beneficial. Niskasen states that "In many areas, competition among bureaus has been the primary reason why government did something right rather than something wrong." Consolidation by function does not guarantee efficiency. In so doing, you have, in effect, transformed a competitive industry into a monopoly.

Recently I received a resolution from the Los Angeles County Federation of Republican Women, a group of 14,000, that further supports my position. I would like to share it with you as I urge you to vote "no" on the creation of a separate Department of Education.

No on Cabinet-Level Department of Education

Whereas, the Federal government's involvement in education has been a multi-million dollar source of fraud and political interference;

Whereas, increased Federal involvement in education has brought a decline rather than an improvement in academic achievement;

Whereas, the proposal for a cabinet-level Department of Education appears to be a political payoff for National Education Association (NEA) support in the 1978 election;

Whereas, a cabinet-level Department of Education would bring undesirable Federal control of education and a national education policy formed by bureaucrats sympathetic to the NEA;

Whereas, the Department of Education would have 16,000 employees with a budget of $14 billion to start; and

Whereas, a cabinet-level Department of Education would undoubtedly increase the cost of education benefitting only bureaucrats, professional educators, consultants

can only offer you four good reasons for thinking that such a change will make a modest but useful improvement in our present situation.

First, education is too important to be left to people who are constantly preoccupied with other pressing responsibilities—part-time people, in effect. As a White House fellow during the Johnson years, I worked with the Secretary of HEW, and I can tell you that it was very difficult to get the attention of the Secretary and the Under Secretary on important education issues. Later, when I served as Deputy Assistant Secretary for Education in a Republican administration, the same preoccupation prevailed. Knowledgeable people from other administrations will agree. The Secretary and most of his closest aides are harried people, rushing from welfare reform to health care costs, to drug abuse and the problems of social security financing. It stands to reason that we could improve the administration of our education programs if we placed the responsibility in the hands of a full-time highly competent staff dealing solely with important problems of education policy.

Second, education is too important to be left logjammed within a vast bureaucracy in such a way that public accountability is lost. Right now, education is layered by a whole host of unknown Special Assistants to the Secretary. These real policymakers, unlike the titular top officials, are neither particularly visible nor are they accountable to Congress, the education community, or the public.

zine article entitled "Why Bureaucracy Keeps Growing" effectively points out that the built-in dynamics of self-interest conspire to produce bureaucratic over-growth "far in excess of what the public wants or what reasonable measures of social utility can justify." Growth improves chances for promotion; salaries and perquisites are awarded primarily on the basis of the number of people an individual has under his supervision—"a sure-fire formula for overmanning."

In bureaucracy, growth triggers still more growth, and greater growth triggers greater inefficiency. As an organization increases in size, it has to adopt a hierarchy to control the flow of information up and down the chain of command. The larger the organization, the more levels in that chain of command. As the levels of command increase, so does the opportunity for distortion and loss of information and authority. As a consequence, more time is spent in supervising or being supervised. To quote economist Anthony Downs:

> In any large, multi-level bureau, a very significant portion of all the activity being carried out is completely unrelated to its formal goal or even the goal of the topmost officials.

The Department of Health, Education, and Welfare is certainly a prime example of the "bureaucratic overgrowth" I have just described. However, placing all of the education functions of the Federal Government within a single department will not solve the problem. In my opinion, such action could prove counterproductive. Conflict and competition within an and commercial interests; Now, therefore be it

Resolved, That the Los Angeles County Federation of Republican Women, meeting April 25, 1979, opposes the establishment of a cabinet-level Department of Education and urges Congressmen and Senators to vote "no" on S210 ●

● Mr. WIRTH. Mr. Chairman, I am pleased to speak in support of the Department of Education. I have supported the proposal since it was first set forth. After listening to the arduous and almost endless debate we have had on the bill, I am reminded of the wise saying of a close friend, "Things seldom turn out as badly as we fear or as well as we hope they will."

As a sponsor of the bill, I am skeptical of promises that the passage of this legislation will guarantee better Federal education programs—it will not. I am equally skeptical of predictions of the dire consequences to come from the creation of a Cabinet-level Department of Education—I foresee no dire consequences. Anyone characterizing this proposal as holy or sinister ought to take another look at the bill.

Felix Frankfurter, the late Supreme Court Justice, once said that "Americans have never learned the art of reforming by littles." In this remark, he was echoing Ralph Waldo Emerson, who preached that "We Americans have only one defect—a passion for sudden achievement." Creating a new department will not deliver us from the problems of our schools. The bill carries with it no iron-clad guarantee that Department of Education will even work better than what we have now. As one who intends to vote for the bill, I Any of you who have tried, as I have, to get to the source of poor administrative decisions being made in education programs know this to be true.

Third, revitalization of morale and effectiveness of the public service has to be a top priority of this Congress. Launching a new Department of Education at this time is a good way to undertake this priority. Few Americans are very happy with the morale and effectiveness of the Federal service delivering education programs. We must do better, and we will by creating positions of leadership that will resist the kind of instability that we have had in Washington. The fact that we have had 15 Commissioners of Education in the last 18 years gives us an idea of how serious the morale problem has become in Office of Education. Education is too important to allow this instability to persist.

Fourth, education is too important to be denied access to the President and the staff of the Office of Management and Budget because of agency structure. Education now has to wait at the end of the table of HEW. If HEW is well disposed, if HEW is well led, if HEW's responsibilities are properly ordered, education makes out all right. But that is usually not the case, and education suffers for it. We have to recognize that in the American system, for better or for worse, the Presidential level is where people voice their most important concerns. If we want these problems addressed, we need to address them at the top. It stands to reason that administration of Federal education programs will improve if we make these changes.

Finally, and most importantly, let us

step back and take a look at what this is all about. Education may well be the Nation's largest enterprise—certainly more Americans are involved in education than any other endeaver. Why? Because we have always placed extraordinary importance in education—from the little red schoolhouse to the comprehensive high school. We have believed in the melting pot of our schools. We have believed in the socialization of our young. We have believed in transmitting our culture and our knowledge to next generations. We have believed in training our young for the complexities of work in a highly technological society.

We have held these commitments in the past, and despite the attacks of many, I trust that we will hold these beliefs in the future. Education is too important to be buried in the depts of an otherpurpose bureaucracy. Education is too important to our country's shared goals, and too important to our future, to be either turned down, neglected, buried, or attacked by opponents of this proposal. Instead, we should be glorying in—and confirming—the great opportunities that can be brought to all Americans through our education system.

I am chagrined that the House has adopted amendments to this bill that are intended to reverse the progress for which we have fought so long in civil rights. I support the bill with trust that most of these objectionable amendments will be removed in conference with the Senate and the others will be nullified by the courts. We have come too far to

The meeting was held in conjunction with a National Conference on Bold Christian Education and Bold Missions sponsored by the Southern Baptist Convention's Education Commission.

"Bold education," Fant said, "can be totally thwarted by legal matters. Universities have been bombarded with governmental agency regulations of laws passed by Congress."

Fant cited several examples of dramatic increases in agency regulations, claiming that the "government has moved into an adversary role."

Fant admitted most of the laws were needed to protect the rights of students, but he chided different agencies of the federal government for imposing conflicting regulations.

"We're now in a 'Catch 22' situation in trying to comply with some of these agencies," he said. "There are too many agencies that deal with education. Sometimes they are in direct conflict with each other as to what they require the college to do."

Fant, a former judge, also claimed the cost of complying with agency demands is becoming prohibitive. "Handicap, environmental impact and occupational safety regulations could exceed $13 billion to the education community," he said. "Soon 50 cents out of every dollar of Federal Student Aid will go to administrative paper work."

Fant did not put all of the blame for the explosion in regulations on Washington. "We as Baptists have let this emerge," he said, explaining, "at least in theory the people are the government."

"Baptists," he said, "must become legally intelligent in fighting government interference and must be willing to give up a low profile."

"Would it be appropriate to say that Baptists and other denominations should join in a 'people's revolt' against these regulations?" he asked, comparing such a "revolt" to California's Proposition 13.

bill back to the House floor before the July recess. Thanks for your hard work and support. I look forward to final passage soon.

Sincerely,

A. CRAIG PHILLIPS,
State Superintendent
of Public Instruction.

WINSTON-SALEM/FORSYTH COUNTY
SCHOOLS,
Winston-Salem, July 3, 1979.

Hon. STEPHEN L. NEAL,
U.S. House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR STEVE: I have followed with great interest and concern the House debate of H.R. 2444, the bill to create a Cabinet-level federal department of education. I understand that the bill will come to the House floor July 10 and will probably reach a final vote after five additional hours of debate. According to reliable sources, Congressman John Erlenborn will drop tactics that he has been using to stall the bill.

I have studied both the House and Senate versions of the bill, and I am persuaded that the benefits of this legislation far outweigh its limitations. Clearly, the federal role in education and the budget of the Education Division are sufficiently large to justify a separate department with Cabinet rank. Moreover, the creation of an Education Department would give to education the recognition that it deserves as a fundamental national activity, greatly increasing its visibility and status.

The charges that a Department of Education would result in greater federal controls and a larger bureaucracy have little basis in fact. In reality, the new Department of Education will greatly improve the management of federal education programs through a more systematic structure than the one we have now. Fragmentation in educational turn around on civil rights now.

I urge you to consider the reasons I have cited for supporting the modest reform that this bill is. Look not for a sudden, dramatic achievement as a result of the changes prescribed in this measure. Instead, look for slow and steady increments of improvement in the administration of Federal education programs.●

● Mr. NEAL. Mr. Chairman, again today we are debating the Department of Education bill, and as the discussion of amendments has dragged on, I think we need to be reminded of the basic arguments for this bill. We are trying to make it easier for educators and State and local officials to deal with the Federal Government, and by so doing we expect to save tax dollars and costs to school districts and educational institutions.

I think my colleagues will be interested in the following article which was released by the Baptist Press and appeared in a Winston-Salem, N.C., newspaper. This article details some of the problems Baptist educators face in dealing with the various Federal officials who have responsibilities in the area of education.

Baptists May Have To Fight Government Interference With Its Colleges

(By Rex Hammock)

Galveston, Tex.—Baptists must be willing to fight excessive governmental regulation if their colleges and universities are to survive, an expert in education law said here this week.

John Fant, legal counsel at Baylor University at Waco, told representatives of Southern Baptist state education committees that members of the nation's largest Protestant denomination "should rise up and draw the line" on governmental interference.

"Baptists must be willing to go into a courtroom and get beat, knowing that next time we could win. We can't always wait to be sure that we are going to win. Our faith is not built on being sure."

Fant admitted that Baptist colleges would never get back to the days when the government has a "hands-off" education stance, but claimed that "we can get back to a position of sanity."

Mr. Chairman, North Carolina's State superintendent of public instruction also is strongly supportive of a separate Department of Education, as are the Winston-Salem/Forsyth County superintendent of schools and director of Federal programs. I think the following letters from our State superintendent and our local director of Federal programs illustrate the importance of this legislation to those who work every day in the field of education and I commend them to my colleagues.

Superintendent of Public
Instruction,
Raleigh, June 22, 1979.

Hon. Steve Neal,
U.S. House of Representatives,
Washington, D.C.

Dear Steve: I want to thank you for your efforts thus far on the Department of Education legislation. I realize H.R. 2444 has been time-consuming with opponents trying to defeat it by proposing numerous amendments.

This letter is just to reconfirm my commitment, as both State Superintendent and President of Council of Chief State School Officers, to the establishment of a cabinet-level Department of Education. As you know, there are more than one hundred national associations endorsing this bill. They include many groups outside the field of education.

I would appreciate your communicating with Speaker O'Neill asking that he bring the

leadership will be corrected, accountability of education officials will be increased, red tape will be reduced, and coordination of education programs will be improved. Adequate safeguards to preserve local and state control of education are defined in the legislation.

Although I have not talked with you about H.R. 2444, members of your staff assure me that you strongly support this legislation. Dr. James A. Adams, the local Superintendent of Schools and I have supported the legislation from the outset, and we have sought to convince others of its merits. I am sure that we can count upon your support on July 10. Given the increasing federal role in education, we can ill afford to perpetuate the present structure.

Sincerely,

Robert R. Severs,
Director of Federal Programs.●

● Mr. DIXON. Mr. Chairman, education is one of the most important issues facing the country, and the 96th Congress. The American people want the quality of education improved, and I believe that the concept of the legislation which we passed today, H.R. 2444, will help to move us in the right direction.

There is a need to provide clarity to the Federal effort to aid education, and to give educational issues greater attention by Federal policymakers.

For the record, I want to state my strong personal opposition to amendments which were previously adopted to H.R. 2444 which run counter to the Federal effort to promote equal educational opportunity. While I voted for the final passage of this bill, I am against the antiaffirmative action, antibusing, anti-civil-rights provisions which were adopted to the bill. Passage of this legislation does not signal the end of the legislative process. There will still be a House-Senate conference on this legislation, and it is my hope that these provisions will be removed. If in fact these provisions are not eliminated from the final bill, I intend to vigorously oppose adoption of the conference report. I appreciate the opportunity to clarify my position on this important piece of legislation.●

● Mr. BETHUNE. Mr. Chairman, in the short time I have been here, I have seen Federal agencies grow by leaps and bounds in size and spending. The Department of Health, Education, and Welfare is no exception and I doubt whether it can justify its continued existence on the basis of performance alone. If a new Department of Education were established, the same bureaucrats who administer HEW programs would more than likely run the new education programs. The Department of Education would be larger than the Department of Energy, Commerce, Interior, Justice, or State. From the start, the American taxpayer would bear the estimated $10 million cost to transfer education programs from HEW into the new Department. Once established, the new Department would employ more than 18,000 people and cost taxpayers over $14.2 billion to operate yearly. This is a shining example of why the people, at least in my district, are growing increasingly alarmed over mounting Federal costs and becoming impatient with legislators who promise, determine how much focus and emphasis are placed on education nationally.

Contrary to the impression some are promoting, the proposal for a separate, Cabinet-level Department of Education does not have the wholehearted support of the education community. If this proposal were clearly in the best interests of education, as we are led to believe, I seriously doubt I would have received as many letters and messages from teachers and parents expressing intense opposition to this legislation. Because so many of the educational functions of the Federal Government are intertwined with other predominantly noneducational departments and agencies, it would be unwise to separate and move them to a new Department of Education.

The education of our young people is too important, and too complex a function, to allow the Federal Government to pull apart an already established department to create a new bureaucracy. Our constituents will bear the costs, the brunt of a loss in local control in education, and poorly run government if this proposal is accepted. For these reasons, I am voting against H.R. 2444 today, and urge my colleagues to cast a negative vote as well.●

● Mr. BROYHILL. Mr. Chairman, I have listened with great interest to the Education Department debate which has lasted off and on for weeks.

The very fact that we have considered dozens of amendments is a strong indication of the controversy here and the Educators at the State and local level are already doing an excellent job of teaching and running our schools. Education problems are not caused by a lack of Federal intervention. Too much Federal intervention, on the other hand, does cause problems in education as has been witnessed recently with the controversy over the Department of Health, Education, and Welfare withholding funds from the University of North Carolina.

Reading over my mail each morning, I am appalled by the number of complaints I receive from local educators who have been deluged by HEW with "necessary" paperwork for grant applications, or for statistical purposes.

This only goes to delineate how far the long arm of Government has stretched into local education, and I am concerned the Department of Education bill would further the trend.

As Stanford University President Richard Lyman pointed out:

> The 200 year old absence of a department of education is not the result of a simple failure during all that time to notice that virtually every other nation in the world has come to have one. On the contrary, it derives from the notion that we do not want the kinds of education systems that such arrangements seem to produce.

A primary focus of the bill is the savings which would be affected if the tangled maze of programs administered by HEW are unraveled. If I am not mistaken, this could be effected today without congressional action, without the but refuse, to tighten the Federal purse strings. Current estimates indicate that the new Department could add nearly 1,000 pieces of paperwork to every school district annually. In establishing a new department, we become more efficient at producing cumbersome regulations and increasing Federal redtape, not streamlining our educational system.

The supporters of this bill refer to the need for a Federal policy on education. Historically, American education has remained a diverse structure because the States and local communities have been primarily responsible for its function. Proponents of this new agency say that local control is guaranteed in this legislation. If past experience is any indication, bureaucrats will continue to follow their natural inclinations to centralize, and will resist conceding authority. We have no real, reliable guarantee that a new Department of Education would do otherwise.

Proponents of the new Department argue that a Secretary of Education would have direct access to the President and would unify educational functions that are now split among four HEW jurisdictions. And, I have heard arguments that a new department would lead to a better defined administrative structure with easily identified points of responsibility and accountability. A new Department, representing yet another addition to an already overly expanded Cabinet, would not necessarily give higher attention to education. It is the emphasis that the executive branch places on education, and the funds that Congress appropriates, which divergent interests the Members have.

After serious consideration, I am casting a "no" vote on this bill.

I cast this vote, not because I failed to recognize the primary role education plays in our society, or indeed the vital support role the Federal Government plays in education. I cast this vote not because I wanted to ignore attempts to foster better government organization, to slice through redtape and bury unneeded bureaucracy, and not because I am unaware of the need to save taxpayers' hard-earned dollars.

I cast this vote because I simply do not believe the bill achieves its stated purpose.

This bill is called the Department of Education Reorganization Act. Despite our attempts to reorganize and consolidate, though, we have seen several amendments offered here to exempt various education-related programs from the bill. Does this constitute an attempt to "reorganize a fragmented structure"?

It seems to me that we have exempted so many programs, that we have left out so many programs, that all we really have done is to lift the education component out of HEW and move it lock, stock and barrel to a new location. There is nothing in this bill to solve the problems of redtape and bureaucratic mismanagement which are inherent in HEW; we are just spending more tax dollars to move these problems to a new location.

I have an overriding concern that this bill affords the Federal Government the opportunity to worm its way further into the affairs of State and local government. need for another agency.

As my distinguished colleague from Ohio, Mr. Ashbrook, remarked during debate the other day, "Good management does not need congressional authority." The fundamental question raised by Mr. Ashbrook remains unresolved with the passage of H.R. 2444:

> If government education specialists can't run the show correctly at HEW, what makes us think we can transfer these same programs to a new location and they will magically make order out of chaos?

Before we jump into the depths of this reorganization project, before the first truck rolls up to the HEW building, before the first stick of furniture is moved out the front door, I believe we should prove beyond a doubt that such a new department is needed. Weighing the pros and the cons, I just cannot conclude that the new department is needed.

If the purpose of this bill is to better facilitate the dissemination of Federal funds for education, I believe we should consider a new approach such as a block grant formula similar to the revenue-sharing concept. This allows States and localities a measure of control over their own educational operations. This would take less personnel to administer and would save tax dollars.

My vote on this bill is not a gage of my commitment to furthering education, for I am firmly committed to the preservation of education as a cornerstone in our society. Rather, this is a measure of my feeling that the proposal only partially and superficially addresses a problem inherent within the Department of Health, Education, and Welfare. It is time Congress look toward the source of the problem rather than attempt a band-aid cure for some of the symptoms.

And that is the fundamental problem with this bill.●

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Nedzi, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, pursuant to House Resolution 299, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the

[Roll No. 314]

YEAS—210

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Aspin
Atkinson
AuCoin
Baldus
Barnard
Beard, R.I.
Bedell
Benjamin
Bevill
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Campbell
Carr
Cavanaugh
Clausen
Clay
Coelho
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Daniel, Dan
Danielson
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Giaimo
Gingrich
Ginn
Gonzalez
Gore
Gramm
Gudger
Hall, Ohio
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Horton
Howard
Huckaby
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Leach, Iowa
Lehman
Leland
Murtha
Natcher
Neal
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Reuss
Rinaldo
Roberts
Roe
Rose
Rostenkowski
Roybal
Runnels
Russo
Santini
Seiberling
Shannon
Sharp
Shelby
Simon
Smith, Iowa
Spence
St Germain
Stack
Staggers
Stark
Steed
Stokes
Studds
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hightower
Hinson
Holt
Holtzman
Hopkins
Hubbard
Hyde
Ichord
Jacobs
Jeffries
Johnson, Colo.
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Livingston
Lloyd
Loeffler
Long, Md.
Lujan
Luken
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKinney
Marlenee
Marriott
Martin
Mazzoli
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moore
Moorhead, Calif.
Moorhead, Pa.
Myers, Ind.
Myers, Pa.
Nedzi
Nelson
Nichols
Nowak
O'Brien
Obey
Pashayan
Paul
Peyser
Quayle
Railsback
Rangel
Regula
Rhodes
Richmond
Ritter
Robinson
Rosenthal
Roth
Rousselot
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Vander Jagt
Vanik
Walgren
Walker
Waxman
Weiss
Whitehurst
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Yates
Young, Fla.
Zablocki
Zeferetti

NOT VOTING—18

Anderson, Ill.
Flood
Murphy, N.Y.

engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Erlenborn moves to recommit the bill, H.R. 2444, to the Committee on Government Operations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 206, not voting 18, as follows:

Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio

Levitas
Lewis
Long, La.
Lott
Lowry
McCormack
McKay
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Moakley
Moffett
Mollohan
Montgomery
Mottl
Murphy, Ill.
Murphy, Pa.

Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Wampler
Watkins
White
Whitley
Whitten
Williams, Ohio
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yatron
Young, Alaska
Young, Mo.

NAYS—206

Abdnor
Addabbo
Ambro
Annunzio
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Barnes
Bauman
Beard, Tenn.
Beilenson
Bennett
Bereuter
Bethune
Biaggi
Bingham
Boggs
Boland
Breaux
Broomfield

Brown, Ohio
Broyhill
Burgener
Butler
Byron
Carney
Carter
Chappell
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conyers
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine

Dickinson
Dingell
Donnelly
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Erlenborn
Evans, Del.
Fenwick
Ferraro
Findley
Florio
Fountain
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gradison
Grassley
Gray

Bolling
Burton, John
Collins, Ill.
D'Amours
Emery

Forsythe
Goldwater
Goodling
McCloskey
Mikva

Rodino
Skelton
Spellman
Treen
Weaver

☐ 1350

The clerk announced the following pairs:

On this vote:

Mr. D'Amours for, with Mr. Goldwater against.

Mr. Skelton for, with Mr. Emery against.

Mr. Weaver for, with Mr. Flood against.

Mr. Mikva for, with Mr. Treen against.

Until further notice:

Mrs. Spellman with Mr. Goodling.

Mr. Murphy of New York with Mr. Forsythe.

Mr. John L. Burton with Mr. McCloskey.

Mrs. Collins of Illinois with Mr. Anderson of Illinois.

Mr. HAWKINS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to the provisions of House Resolution 299, I call up the Senate bill (S. 210) to establish a Department of Education, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

☐ 1400

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the bill, S. 210 and to insert in lieu thereof the provisions of H.R. 2444, as passed, as follows:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FINDINGS AND PURPOSE

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Prohibition against Federal control of education.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Special Education and Rehabilitation Services.
Sec. 207. Assistant Secretary for Vocational and Adult Education.
Sec. 208. Office of Educational Research and Improvement.
Sec. 209. Functions relating to education of overseas military dependents.
Sec. 210. Office of Bilingual Education and Minority Languages Affairs.
Sec. 211. General Counsel.
Sec. 212. Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Interdepartmental Education Coordinating Committee.

TITLE V—TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.
Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational"

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(7) to improve the coordination of Federal education programs; and

(8) to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, partici-

TITLE III—TRANSFERS

Sec. 301. Transfers from the Department of Health, Education and Welfare.
Sec. 302. Transfers from the Department of Labor.
Sec. 303. Transfers from the Department of Defense.
Sec. 304. Transfers from the National Science Foundation.
Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Reduction of positions.
Sec. 404. Exclusion of overseas school personnel from limitation on positions.

PART B—GENERAL PROVISIONS

Sec. 421. General authority.
Sec. 422. Delegation.
Sec. 423. Reorganization.
Sec. 424. Rules.
Sec. 425. Contracts.
Sec. 426. Regional and field offices.
Sec. 427. Acquisition and maintenance of property.
Sec. 428. Facilities at remote locations.
Sec. 429. Use of facilities.
Sec. 430. Copyrights and patents.
Sec. 431. Gifts and bequests.
Sec. 432. Working capital fund.
Sec. 433. Funds transfer.
Sec. 434. Seal of department.
Sec. 435. Annual report.
Sec. 436. Authorization of appropriations.
Sec. 437. Relationship to General Education Provisions Act.
Sec. 438. Technical advice.
Sec. 439. Transition provision regarding administrative structures.

refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality, and that no individual should be denied such educational opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex;

(3) Parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

pation in which would be on a voluntary basis.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. (a) No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by Federal statute. Regulations issued by the Department shall not have the standing of a Federal statute for the purpose of this section.

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated, or otherwise withheld from any educational institution, school, or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks, or other instructional mateirals, except where specifically authorized by law.

(c) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall be the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) of the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—ister such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Imtion shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs;

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities; and

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

(e) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall admin-

provement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There is established in the Department an Office of Bilingual Education and Minority Language Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

GENERAL COUNSEL

SEC. 211. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations, and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private post-secondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare tion, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(7) the Advisory Council on Education Statistics and all functions vested in such Council; and

(8) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) Notwithstanding the provision of section 601 of this Act, there shall

President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

Sec. 214. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data.

(3) full and effective cooperation with the Secretary on such studies and analyses as

or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Higher Education Act of 1965;

(D) under the Education Amendments of 1978;

(E) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) under the National Defense Education Act of 1958;

(G) under the Education of the Handicapped Act;

(H) under part B of title V of the Economic Opportunity Act of 1964;

(I) under the National Commission on Libraries and Information Science Act;

(J) under the Vocational Education Act of 1963;

(K) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(L) under the Model Secondary School for the Deaf Act;

(M) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(N) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(O) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4)(A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education,

be transferred to and vested in the Secretary, at such time, on or after the effective date of this Act, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

Sec. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education, (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the National Science Foundation, for coordinated planning and operation of the science education programs described in subsection (a), including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS–16, GS–17, and GS–18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 208 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code. If the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, Unted States Code, at rates not to exceed the daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

REDUCTION OF POSITIONS

SEC. 403. Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time permanent positions that perform functions to be transferred to the Department by this Act shall be reduced by 800 and thereafter the number of such positions shall not be increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section.

EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION ON POSITIONS

SEC. 404. None of the limitations or computations required by section 403 shall be applicable to any individual employed pursuant to section 209 as a teacher, administrator, clerk, or secretary in an overseas school.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

National Science Foundation Act of 1950 to initiate and conduct programs.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by section 208 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions precribed under section 3134(e) and section 5108 of title 5, United States Code.

(e) Notwithstanding the transfer of functions effected by section 303 (and the consequent transfer of personnel), personnel performing such functions shall be treated for purpose of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

(f) For purposes of any status of forces agreement between the United States and any other international organization, any reference to "civilian component" shall be

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or offices vested by this Act in any organizational unit or component.

RULES

SEC. 424. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306 of this Act.

CONTRACTS

SEC. 425. (a) Subject to the provisions of the Federal Property and Administrative

Services Act of 1949 the Secretary is authorized to make enter into and perform such contracts grants leases cooperative agreements or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments by way of advance or reimbursement as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

(b) Notwithstanding any other provision of this Act no authority to enter into contracts or to make payments under this title shall be effective except to the extent provided in advance by appropriation Acts.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITIONS AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property or any interest therein, as the Secretary deems necessary and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor

priation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except

adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1978 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies: *Provided*, That such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which

to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during each fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions. Such report shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 425 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

Sec. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

Sec. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

TRANSITION PROVISION REGARDING ADMINISTRATIVE STRUCTURES

Sec. 439. The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

Sec. 501. (a) Except as otherwise provided in this Act, the personnel employed in con-

the duration of the service of such person in the new position.

AGENCY TERMINATIONS

Sec. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The Director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

Sec. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is au-

or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, function of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of nection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315-5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

Sec. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for thorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, record, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

Sec. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect; shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

Sec. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

Sec. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following "The Department of Education.".

(c) Section 5312 of title 5 of the United

States Code is amended by adding at the end thereof the following

"(15) Secretary of Education."

(d) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4).", and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(f) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following

"(41) Officers, Department of Education, (5).".

(g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(h) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an

(1) in subsection (a)(1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the 'principal officer')," after "the 'Assistant Secretary'),";

(2) by striking out "chairman" in such subsection and inserting in lieu theerof "co-chairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education."; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) make recommendations to the Director and to the Secretary of Education on the orderely transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education.".

(k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

(l)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such

of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

SEC. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

TITLE VI—EFFECTIVE DATE AND INTERIM

educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services.".

(j) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

(m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

REDESIGNATION

Sec. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary

APPOINTMENTS

EFFECTIVE DATE

Sec. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretry takes office, on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

Sec. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

Amend the title so as to read: "An Act to establish a Department of Education, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2444) was laid on the table.

PERSONAL EXPLANATION

Mr. GOLDWATER. Mr. Speaker, on rollcall No. 314, I was unavoidably detained. If I had been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. WEAVER. Mr. Speaker, on the passage of H.R. 2444, rollcall No. 314, I would have voted "aye." I missed the vote because I was walking between two committee meetings and did not hear the bells.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just passed.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 210

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendment to the Senate bill (S. 210), the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 2444.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

There was no objection.

TEXT OF H.R. 2444 AS PASSED BY THE HOUSE

In the House of Representatives, U. S.,

July 11, 1979.

Resolved, That the bill from the Senate (S. 210) entitled "An Act to establish a Department of Education", do pass with the following

AMENDMENTS:

Strike out all after the enacting clause, and insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. *This Act may be cited as the "Department of Education Organization Act".*

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FINDINGS AND PURPOSE

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Prohibition against Federal control of education.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Special Education and Rehabilitation Services.
Sec. 207. Assistant Secretary for Vocational and Adult Education.
Sec. 208. Office of Educational Research and Improvement.
Sec. 209. Functions relating to education of overseas military dependents.
Sec. 210. Office of Bilingual Education and Minority Languages Affairs.
Sec. 211. General Counsel.
Sec. 212. Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Interdepartmental Education Coordinating Committee.

TITLE III—TRANSFERS

Sec. 301. Transfers from the Department of Health, Education, and Welfare.
Sec. 302. Transfers from the Department of Labor.
Sec. 303. Transfers from the Department of Defense.
Sec. 304. Transfers from the National Science Foundation.
Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Reduction of positions.
Sec. 404. Exclusion of overseas school personnel from limitation on positions.

PART B—GENERAL PROVISIONS

Sec. 421. General authority.
Sec. 422. Delegation.
Sec. 423. Reorganization.
Sec. 424. Rules.
Sec. 425. Contracts.
Sec. 426. Regional and field offices.
Sec. 427. Acquisition and maintenance of property.
Sec. 428. Facilities at remote locations.
Sec. 429. Use of facilities.
Sec. 430. Copyrights and patents.
Sec. 431. Gifts and bequests.
Sec. 432. Working capital fund.
Sec. 433. Funds transfer.
Sec. 434. Seal of department.
Sec. 435. Annual report.
Sec. 436. Authorization of appropriations.
Sec. 437. Relationship to General Education Provisions Act.
Sec. 438. Technical advice.
Sec. 439. Transition provision regarding administrative structures.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.

Sec. 510. Transition.
Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(7) to improve the coordination of Federal education programs; and

(8) to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. (a) No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by Federal statute. Regulations issued by the Department shall not have the standing of a Federal statute for the purpose of this section.

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated, or otherwise withheld from any educational institution, school, or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks, or other instructional materials, except where specifically authorized by law.

(c) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the *event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.*

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs;

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities; and

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

(e) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the

President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with

public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both

public and private, as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

Sec. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Sec. 210. There is established in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

GENERAL COUNSEL

Sec. 211. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

Sec. 212. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

Sec. 213. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

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(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

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(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 214. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such

Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Higher Education Act of 1965;

(D) under the Education Amendments of 1978;

(E) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) under the National Defense Education Act of 1958;

(G) under the Education of the Handicapped Act;

(H) under part B of title V of the Economic Opportunity Act of 1964;

(I) under the National Commission on Libraries and Information Science Act;

(J) under the Vocational Education Act of 1963;

(K) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(L) under the Model Secondary School for the Deaf Act;

(M) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(N) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(O) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4)(A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provi-

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sions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(7) the Advisory Council on Education Statistics and all functions vested in such Council; and

(8) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) Notwithstanding the provision of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time, on or after the effective date of this Act, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education; (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the National Science Foundation, for coordinated planning and operation of the science education programs described in subsection (a), including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the National Science Foundation Act of 1950 to initiate and conduct programs.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 208 of this Act of a number of scientific, professional, and technical positions outside of the

General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by

section 208 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of title 5, United States Code.

(e) Notwithstanding the transfer of functions effected by section 303 (and the consequent transfer of personnel), personnel performing such functions shall be treated, for purposes of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

REDUCTION OF POSITIONS

SEC. 403. Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time permanent positions that perform functions to be transferred to the Department by this Act shall be reduced by 800 and thereafter the number of such positions shall not be increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section.

EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION ON POSITIONS

SEC. 404. None of the limitations or computations required by section 403 shall be applicable to any individual

employed pursuant to section 209 as a teacher, administrator, clerk, or secretary in an overseas school.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or *offices vested by this Act in any organizational unit or component.*

RULES

Sec. 424. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306 of this Act.

CONTRACTS

Sec. 425. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to the extent provided in advance by appropriation Acts.

REGIONAL AND FIELD OFFICES

Sec. 426. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

Sec. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of *employees of the Department at its installations and purchase and maintain equipment therefor.*

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies: Provided, That such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes; except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services [illegible] document reproduction, and for graphics and visual aids; and [illegible]tral library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehen-

sive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions. Such report shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 435 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

SEC. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

TRANSITION PROVISION REGARDING ADMINISTRATIVE STRUCTURES

SEC. 439. The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the

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administration of such a program through a single organizational unit.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the

Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect;

shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(f) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (5).".

(g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(h) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services,".

(j) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection (a)(1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the 'principal officer')," after "the 'Assistant Secretary'),";

(2) by striking out "chairman" in such subsection and inserting in lieu thereof "co-chairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education,"; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,".

(k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the

information required by this subparagraph to the Secretary not later than January 1 of each year.".

(l)(1) Section 352 of the Environmental Education Act of 1976 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

(m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu

thereof "Education, the Secretary of Health and Human Services,".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which func-

tions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

Sec. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(h)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 603. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

Amend the title so as to read: "An Act to establish a Department of Education, and for other purposes.".

Attest:

Clerk.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, TUESDAY, JULY 17, 1979 *No. 96*

House of Representatives

APPOINTMENT OF CONFEREES ON S. 210, DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill (S. 210) to establish a Department of Education, and request a conference with the Senate thereon.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ERLENBORN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

It preserves all the rights of the Members to vote the conference report up or down when it comes back.

Mr. Speaker, this is nothing but a routine procedural step, and I urge approval of the motion.

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Mr. Speaker, at this time I yield 4 minutes to the gentleman from Illinois (Mr. ERLENBORN).

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, this is, as the gentleman from Texas suggested, a somewhat unusual procedure, but it is not without precedent. We have in the past gone this route of having a vote—and I hope in this case it would be record vote—on a motion to send the bill

House, we will vote no on the motion to go to conference.

There is another good reason to do this. There are four highly controversial amendments, four or more, in the bill under consideration, one on busing, one on quotas, one on prayer in the school, and one on abortion.

There have been rumors in the debate last week, calls by some Members, for removing these amendments, most of which passed by a better than a 2-to-1 margin in the House, removing them in the conference. The only way we can protect those amendments as adopted overwhelming margins in the House is to retain the right to the motion to recommit.

Therefore, Mr. Speaker, I submit the House must today vote no on the motion

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, pursuant to clause 1, rule XX of the rules of the House and the direct instructions of the Committee on Government Operations, I move that the House insist on its amendments to the Senate bill (S. 210) to establish a Department of Education, and request a conference with the Senate thereon.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The genteman from Texas (Mr. Brooks) is recognized for 1 hour.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, by direction of the Committee on Government Operations, I have asked that we go to conference. I do not intend to take much of the time of the House. It is essential as part of the legislative process that when the House and Senate disagree on a bill, they go to conference and try to work out their differences.

This is usually done by unanimous consent, but in this case the opponents of the bill, which was passed last week, to establish a Department of Education have indicated their objection. So under the House rules, the Committee on Government Operations has authorized and directed me to offer this motion.

If the motion is approved, it will simply permit the conference procedure to go forward and permit the conferees to bring back a conference report to the House for its acceptance or rejection. That is all it does. It is simply a motion to go to conference instead of a unanimous-consent request to go to conference.

Ordinarily, it is not necessary to have a procedure such as this because the general practice of the House is followed in most cases.

Mr. Speaker, what has happened in this case is, this bill, S. 210, passed the House last week. It has been held in the House and is still in the House and has not been transmitted to the Senate.

By requesting the conference at this time, as the gentleman from Texas has done with his motion, we become the first of the two bodies to act in requesting a conference. Then, under the procedures of the Congress, after the conference committee completes its work, the conference report will go to the other body first. If the other body then adopts the conference report and discharges the conferees, when the conference report is considered in the House there will be no motion to recommit the conference report to the conference.

If the usual procedure of the House had been followed, the bill would already be over in the other body, and they would make the request. That would protect the right of the House to have a motion to recommit either with or without instructions when the conference committee report was considered.

It was because the managers of this bill have not followed the usual procedure that it is necessary in the protection of the prerogatives of the House that this objection was made by me a moment ago, and I am going to request a record vote on sending the bill to conference. If we want to protect the prerogatives of the House to go to conference so that we can protect our prerogatives.

Mr. BROOKS. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Brooks).

The question was taken; and the Speaker pro tempore announced that he was in doubt.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 263, nays 156, not voting 15, as follows:

[Roll No. 346]

YEAS—263

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Boggs
Boland
Boner
Bonior
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon

Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler

Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Lloyd
Long, La.
Lowry
Lujan
Lundine
McCormack
McHugh
McKay
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan

Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Roe
Rose
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Shelton
Slack
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
White

Moorhead,
  Calif.
Myers, Ind.
Myers, Pa.
Nowak
O'Brien
Paul
Peyser
Pickle
Quayle
Regula
Rhodes
Richmond
Ritter
Robinson
Rosenthal
Roth
Rousselot

Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Stenholm

Stockman
Stratton
Stump
Symms
Thomas
Treen
Vander Jagt
Walker
Watkins
Weiss
Whitehurst
Wilson, Bob
Winn
Wydler
Wylie
Yatron
Young, Mo.
Zeferetti

NOT VOTING—15

Anderson, Ill.
Blanchard
Bolling
Bonker
Brown, Ohio

Conyers
Emery
Evans, Ga.
Flood
Forsythe

Gibbons
Holtzman
Mathis
Rodino
Taylor

☐ 1700

The Clerk announced the following pairs:

On this vote:

Ms. Holtzman for, with Mr. Brown of Ohio against.

Mr. Conyers for, with Mr. Emery against.

Mr. Flood for, with Mr. Taylor against.

Until further notice:

Mr. Rodino with Mr. Anderson of Illinois.

Mr. Mathis with Mr. Evans of Georgia.

Mr. Bonker with Mr. Forsythe.

Mr. Gibbons with Mr. Blanchard.

Mr. GLICKMAN changed his vote from "nay" to "yea."

Mr. WYLIE changed his vote from "yea" to "nay."

So the motion was agreed to.

tion or language. I have said time and time again, I have argued this specific language on the floor that in no way does this impact on real affirmative action where there is an attempt to reach out to minorities, where there is an attempt to really help people in their upward mobility. What this does is deny the use of quotas. We have argued this matter in this House many times previously and we have come to the conclusion in this House time and time again that we do not want quotas as a part of American life.

The reason why we should provide instruction language, even on something that was passed as overwhelmingly as 277 to 126 previously, is because this amendment was mentioned over and over again in the debate as being a mischievous amendment, that there was something wrong with this amendment and with language being adopted by the House, and somehow we were doing something that was not educational in nature.

I would say that the Office of Education has been one of those areas that has been very much involved in the whole quota philosophy. If we are going to end quotas in our society, one of the places we are going to have to do it is in the field of education because we have seen in higher education quotas imposed on institutions of higher learning. We have seen quotas imposed on local school districts, and this is what this language is all about, to make certain that a new Department of Education would not use

Heiner
Heftel
Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Alaska
Young, Fla.
Zablocki

NAYS—156

Abdnor
Addabbo
Ambro
Annunzio
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Biaggi
Bingham
Bowen
Broomfield
Burgener
Butler
Byron
Campbell
Carney
Carter
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Edwards, Ala.
Edwards, Okla.
Erlenborn
Evans, Del.
Ferraro
Findley
Fountain
Frenzel
Gaydos
Goldwater
Goodling
Gradison
Grassley
Green
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hinson
Holt
Hopkins
Hyde
Ichord
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Lat[illegible]
Le[illegible], La.
Le[illegible]r
Lent
Livingston
Loeffler
Long, Md.
Lott
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Marlenee
Marriott
Martin
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore

The result of the vote was announced as above recorded.

☐ 1710

PREFERENTIAL MOTION OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. WALKER moves that the managers on the part of the House and the conference on the disagreeing votes of the two Houses on the House amendment to the Senate bill S. 210 be instructed to insist upon the provisions contained in section 101 (2).

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. WALKER) is recognized for 1 hour.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an attempt on my part to assure that the conference will look favorably on language that this House adopted by a vote of 277 to 126. This is specifically the language which was put into the purpose section of the bill which defines the antiquota portion of the legislation passed by the House.

The Members may remember that the language we adopted said that there is a continuous need to insure equal access for all Americans to educational opportunities of a high quality and that no individual should be denied such educational opportunities by rules, regulations, standards, guidelines and orders which utilize any ratios, quotas, or other numerical requirements related to race, creed, color, national origin or sex. In other words, this is specifically antidiscrimination legislation.

I make a very specific point here that this is not antiaffirmative-action legislation, but it is legislation that speaks to the quota philosophy.

Mr. Speaker, the fact is that this language was mentioned even in the well of the House as we were about to pass this legislation as being one of those things which the conferees would have to strip out in order to get a few votes to pass a conference report. Well, I think it is time that the House goes on record again to show that we do, in fact, mean what we say about antiquota language, that we do, in fact, mean that this Department should stay away from the use of quotas, and that is what this language would do on the motion to instruct. I would ask the House to vote in favor of the motion to instruct.

☐ 1720

Mr. BROOKS. Mr. Speaker, would the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, one can understand that I am, of course, opposed to this motion. I do not think we need a whole lot of discussion about it. I am opposed generally to motions to instruct conferees even when I am not a conferee.

The whole idea of a conference between the House and Senate is to try to come up with some compromise between the differing positions of the two bodies. There has to be some give-and-take if we are ever going to get to a final agreement. The effort to instruct conferees works against that hope of compromise. It says to the Senate, "You give and we will take."

That is not the way everybody gets together. I have said that I will do all I can to sustain the House position, but I have also said that I am not going to stand by and see this conference end in a deadlock. My main purpose in going to conference is to work out an agreement that will lead to the establishment of a Department of Education. Now, that is not the purpose of the Member who has offered this amendment and who is now insisting on instructing the conferees.

So, I hope the motion will be defeated. I hope the House will stand by its conferees by trusting them to do the best job they can. I assure the Members that I will do the best job I can to bring back a bill that will have the support of a substantial majority of the House Members.

Mr. Speaker, I ask for a no vote on the motion.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, I rise in support of the motion to instruct conferees. Let me say at the outset that I seldom have voted for a motion to instruct. I think, as the gentleman from Texas has aptly put it, the conferees should be given freedom to adjust the differences in a give-and-take atmosphere, the differences between the two bodies.

But, here we have a situation that is somewhat different. I expect, by the way, to be one of the conferees, and I do not take it as a personal affront that the gentleman is making this motion to instruct me and the conferees as to what the House would like us to do. Why do I mine any circumstance—any circumstance—under which we should instruct conferees. It is just exceedingly difficult for me to accept that as a political, philosophical way of life when the design of the conference is to give latitude for movement.

I know the gentleman wants to protect his nonantiaffirmative action amendment—it is nonantiaffirmative. I know he wants to protect that, and I can understand that, but there is a larger issue. I do not think this House wants to start the practice of capriciously instructing conferees everytime there is an amendment a Member has an intense interest in. Also, I do not think this House wants to start instructing conferees on the basis of rumors, stories, rumors that are made about what might happen in conference and who has promised what to whom or under what circumstance. That is Washington. That is the way we operate in terms of these stories and rumors.

If this House is going to degrade its dignity to instruct conferees on the basis of rumors floating around, that is almost disgraceful.

I hope that we would vote down this rush to a very dangerous development to harm this House.

Mr. WALKER. I thank the gentleman for his comments.

Mr. Speaker, I would simply point out to the gentleman that this is not a capricious action, by any stretch of the imagination. I picked the amendment

Evans, Del.
Evans, Ind.
Ferraro
Findley
Flippo
Fountain
Frenzel
Gaydos
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hanley
Hansen
Harsha
Heckler
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

say that this is different than the usual situation? It is because it was an open secret that prior to the passage of the bill last week there were indications that this and other amendments would be stripped out of the bill in the conference. The gentleman from California (Mr. Dellums) took the well last week and conditioned his support in voting on the bill on this and other amendments being taken out of the bill. Newspaper stories prior to the passage of the bill indicated that those White House lobbyists and the NEA lobbyists were promising Members that if they voted for passage of the bill these amendments would come out in conference.

With that as a background, with the lack of any secrecy about the intentions of at least some people who are an influence over the course of this legislation intending not to stand up for the House position, I think it is altogether fitting and proper that this motion be made and that it be passed by a vote of 277 to 126, as was the amendment itself.

Mr. Speaker, I would hope that the motion to instruct would be supported.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for yielding. I have had the honor and privilege of serving on a number of conferences since I have been in this House. I have been a conferee on the Budget Committee, on the various housing committees, and on small business and other areas. It is awfully hard for me to determine that had the biggest vote on the House floor. This was by far the one in which the House has shown the most interest. I would also say to the gentleman that it is more than rumors we are dealing with; it is specific statements on the Record, on the House floor, that dealt with the deletion of specific amendments in the conference.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Pennsylvania (Mr. Walker).

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were yeas 214, nays 202, not voting 18, as follows:

[Roll No. 347]

YEAS—214

Abdnor
Ambro
Annunzio
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boland
Boner
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn

NAYS—202

Addabbo
Akaka
Albosta
Alexander
Anderson,
 Calif.
Andrews, N.C.
Andrews,
 N. Dak.
Anthony
Ashley
Aspin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bingham
Boggs
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Danielson
Daschle
Dellums
Derrick
Dicks
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Leath, Tex.
Lehman
Leland
Lloyd
Long, La.
Lowry
Lujan
Lundine
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard

Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Santini
Schroeder
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
Whitley
Williams, Mont.
Williams, Ohio
Wirth
Wolpe
Yates
Young, Mo.
Zablocki

NOT VOTING—18

Anderson, Ill.
Blanchard
Bolling
Brown, Ohio
Conyers
Davis, S.C.
Diggs
Emery
Evans, Ga.
Flood
Forsythe
Gibbons
LaFalce
Runnels
Taylor
Wilson, C. H.
Wright
Young, Alaska

☐ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Brown of Ohio for, with Mr. Flood against.

Mr. Emery for, with Mr. Conyers against.

Mr. Taylor for, with Mr. Diggs against.

Until further notice:

Mr. Blanchard with Mr. Runnels.

Mr. Davis of South Carolina with Mr. Wright.

Mr. Evans of Georgia with Mr. Young of Alaska.

Mr. Charles H. Wilson of California with Mr. Forsythe.

Mr. LaFalce with Mr. Gibbons.

Mr. WHITTEN and Mr. COELHO changed their vote from "nay" to "yea."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees: Messrs. Brooks, Fuqua, Moorhead of Pennsylvania, Pascell, St Germain, Levitas, Horton, Erlenborn, and Stangeland.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, TUESDAY, JULY 17, 1979 No. 96

Senate

(Legislative day of Thursday, June 21, 1979)

DEPARTMENT OF EDUCATION ORGANIZATION ACT

Mr. RIBICOFF. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 210, Department of Education legislation.

Mr. STEVENS. Mr. President, does that require unanimous consent?

The PRESIDING OFFICER. No; it is that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object. I have a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. If the motion of the

The PRESIDING OFFICER. Objection is heard.

(Later, the following occurred:)

Mr. STEVENS. Mr. President, if it is possible for the Senator from Illinois to allow it, I should like to remove the objection to the motion made by the Senator from Connecticut. That matter has been taken care of now. I apologize to a privileged matter.

The PRESIDING OFFICER (Mr. MATSUNAGA) laid before the Senate the amendment of the House of Representatives to the bill (S. 210) to establish a Department of Education.

(The amendment of the House is printed in the RECORD of July 11, 1979, beginning at page H5719.)

Mr. RIBICOFF. Mr. President, I move that the Senate disagree to the amendment of the House, that the Senate agree to the conference requested by the House on the disagreeing votes on S. 210, and

Senate from Connecticut is granted, will that prevent a Senator who wishes to make a motion to instruct the conferees from making such a motion after his request is granted?

The PRESIDING OFFICER. After the conferees have been appointed, the Senator is correct.

Mr. STEVENS. The motion to instruct the conferees must be made before the conferees are appointed?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. On behalf of a Member of the minority, I am compelled to object.

my friend.

Mr. RIBICOFF. My gratitude to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Connecticut must restate his unanimous-consent request.

Mr. RIBICOFF. Mr. President, I move that the Senate disagree to the amendment of the House, that the Senate agree to the conference requested by the House on the disagreeing votes on S. 210, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. RIBICOFF, Mr. GLENN, Mr. LEVIN, Mr. PERCY, and Mr. JAVITS conferees on the part of the Senate.

[CONFERENCE COMMITTEE PRINT]
July 31, 1979

THE DEPARTMENT OF EDUCATION ORGANIZATION ACT

A Comparison of the Senate Bill (S. 210) and the House Amendment

[illegible] O

U.S. GOVERNMENT PRINTING OFFICE : 1979

SENATE BILL

96TH CONGRESS
1ST SESSION
S. 210

AN ACT

To establish a Department of Education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1979".

HOUSE AMENDMENT

In the House of Representatives, U. S.,
July 11, 1979.

Resolved, That the bill from the Senate (S. 210) entitled "An Act to establish a Department of Education", do pass with the following

AMENDMENTS:

Strike out all after the enacting clause, and insert:

Amend the title so as to read: "An Act to establish a Department of Education, and for other purposes.".

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

SENATE BILL

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—GENERAL PROVISIONS

Sec. 101. Statement of findings.
Sec. 102. Purposes.
Sec. 103. State and local responsibilities for education.
Sec. 104. Definitions.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Sec. 201. Department of Education.
Sec. 202. Principal officers.
Sec. 203. Functions of the Department.
Sec. 204. Office for Civil Rights.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Postsecondary Education.
Sec. 207. Office of Vocational, Adult, and Community Education.
Sec. 208. Office of Special Education and Rehabilitative Services.
Sec. 209. Office of Education for Overseas Dependents.
Sec. 210. Office of Educational Research and Improvement.
Sec. 211. Office of Bilingual Education and Minority Affairs.
Sec. 212. Office of General Counsel.
Sec. 213. Office of Inspector General.
Sec. 214. Intergovernmental Advisory Council on Education.
Sec. 215. Federal Interagency Committee on Education.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Sec. 301. Transfers of agencies and functions from the Department of Health, Education, and Welfare.
Sec. 302. Transfers of agencies and functions from the Department of Defense.
Sec. 303. Transfers of functions from the National Science Foundation.
Sec. 304. Transfers of programs from the Department of Justice.
Sec. 305. Transfers of functions from the Department of Housing and Urban Development.
Sec. 306. Transfers of functions from the Department of Labor.
Sec. 307. Transfer of the Advisory Council on Education Statistics.
Sec. 308. Effect of transfers.

HOUSE AMENDMENT

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FINDINGS AND PURPOSE

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Prohibition against Federal control of education.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Special Education and Rehabilitation Services.
Sec. 207. Assistant Secretary for Vocational and Adult Education.
Sec. 208. Office of Educational Research and Improvement.
Sec. 209. Functions relating to education of overseas military dependents.
Sec. 210. Office of Bilingual Education and Minority Languages Affairs.
Sec. 211. General Counsel.
Sec. 212. Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Interdepartmental Education Coordinating Committee.

TITLE III—TRANSFERS

Sec. 301. Transfers from the Department of Health, Education, and Welfare.
Sec. 302. Transfers from the Department of Labor.
Sec. 303. Transfers from the Department of Defense.
Sec. 304. Transfers from the National Science Foundation.
Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Effect of transfers.

SENATE BILL

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Annual authorization of personnel.

PART B—GENERAL PROVISIONS

Sec. 411. Authority of the Secretary.
Sec. 412. Delegation.
Sec. 413. Reorganization.
Sec. 414. Reporting relationships.
Sec. 415. Rules.
Sec. 416. Contracts.
Sec. 417. Technical advice.
Sec. 418. Regional and field offices.
Sec. 419. Acquisition and maintenance of property.
Sec. 420. Facilities at remote locations.
Sec. 421. Use of facilities.
Sec. 422. Copyrights and patents.
Sec. 423. Gifts and bequests.
Sec. 424. Working capital fund.
Sec. 425. Funds transfer.
Sec. 426. Seal of the Department.
Sec. 427. Annual report.
Sec. 428. Relationship to General Education Provisions Act.
Sec. 429. Authorization of appropriations.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Technical and conforming amendments.
Sec. 509. Amendments to the Comprehensive Employment and Training Act.
Sec. 510. Amendment to the Elementary and Secondary Education Act of 1965.
Sec. 511. Amendments to the Defense Dependents' Education Act of 1978.
Sec. 512. Redesignation.
Sec. 513. Coordination of programs affecting handicapped individuals.
Sec. 514. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

HOUSE AMENDMENT

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Reduction of positions.
Sec. 404. Exclusion of overseas school personnel from limitation on positions.

PART B—GENERAL PROVISIONS

Sec. 421. General authority.
Sec. 422. Delegation.
Sec. 423. Reorganization.
Sec. 424. Rules.
Sec. 425. Contracts.
Sec. 426. Regional and field offices.
Sec. 427. Acquisition and maintenance of property.
Sec. 428. Facilities at remote locations.
Sec. 429. Use of facilities.
Sec. 430. Copyrights and patents.
Sec. 431. Gifts and bequests.
Sec. 432. Working capital fund.
Sec. 433. Funds transfer.
Sec. 434. Seal of department.
Sec. 435. Annual report.
Sec. 436. Authorization of appropriations.
Sec. 437. Relationship to General Education Provisions Act.
Sec. 438. Technical advice.
Sec. 439. Transition provision regarding administrative structure.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.
Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

SENATE BILL	HOUSE AMENDMENT
TITLE I—GENERAL PROVISIONS	*TITLE I—FINDINGS AND PURPOSES*
STATEMENT OF FINDINGS	*FINDINGS*
SEC. 101. The Congress finds and declares that—	*SEC. 101. The Congress of the United States finds that—*
(1) education is fundamental to the growth and achievement of the Nation;	*(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;*
(2) there is a continual need to provide equal access to education for all Americans;	*(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex;*
(3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families;	*(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;*
(4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments;	

SENATE BILL	HOUSE AMENDMENT
(5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;	
	(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;
(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;	*(7) there is a need for improved coordination of Federal education and related programs; and*
(7) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government;	*(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.*
	(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;
(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and	

SENATE BILL	HOUSE AMENDMENT
	(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;
(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.	
PURPOSES	*PURPOSES*
Sec. 102. It is the purpose of this Act to establish a Department of Education in order to— (1) enable education to receive the appropriate emphasis at the Federal level;	*SEC. 103. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:*
(2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;	*(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;*
(3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;	*(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;*

SENATE BILL	HOUSE AMENDMENT
(4) ensure the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services,	*(6) to encourage the increased involvement of the public, parents, and students in Federal education programs;*
(5) enable the Federal Government to coordinate its education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;	*(7) to improve the coordination of Federal education programs; and*
	(4) to improve the management and efficiency of Federal education activities;
	(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;
(6)(A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level; and	*(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;*

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(7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.	
	(8) to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis.
STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION	*PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION*
SEC. 103. (a)(1) The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments. (2) It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic	*SEC. 103. (a) No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or*

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educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

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over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by Federal statute. Regulations issued by the Department shall not have the standing of a Federal statute for the purpose of this section.

(Sec. 103.)

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated, or otherwise withheld from any educational institution, school, or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks, or other instructional materials, except where specifically authorized by law.

(c) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system.

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(b) Nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs.

DEFINITIONS

SEC. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents;

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TRANSITION PROVISION REGARDING ADMINISTRATIVE STRUCTURES

SEC. 439. The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof;

the term "Secretary" means the Secretary of Education;

and the term "Under Secretary" means the Under Secretary of Education.

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(7) the term "Council" means the Intergovernmental Advisory Council on Education;	
(8) the term "Committee" means the Federal Interagency Committee on Education; and	
(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.	*(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.*
	(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.
	(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.
	(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

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TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department. The Under Secretary shall assure that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary shall assure that appropriate officials of the Department consult with individuals responsible for making policy relating to edu-

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TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

The Under Secretary shall also be responsible for intergovernmental relations in the Department.

cession in the States, the local school systems and other instrumentalities of the States, and tribal governments concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) Local education authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other subdivision of the Department.

(3) If the Under Secretary determines that such a conflict, does exist, the Under Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with his recommendations for the correction of the conflict. The Under Secretary, together with the appropriate Federal agency, shall consider such cases of conflicting regulations within a period not to exceed ninety days, and shall make recommendations for resolving such conflict, including any appropriate relief for the local education authority or authorities bringing the case to the Department.

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(4) The Under Secretary shall perform such additional duties and exercise such additional powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.	[Sec. 201(b).] *The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant.*
(5) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.	[Sec. 201(b).] *The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.*
	PRINCIPAL OFFICERS
(c)(1) There shall be in the Department—	*Sec. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.*
(A) an Assistant Secretary for Special Education and Rehabilitative Services;	[See section 202.]
(B) an Assistant Secretary for Elementary and Secondary Education;	[See section 202.]

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(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Vocational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) a Director of the Office of Bilingual Education and Minority Affairs;

(H) one additional Assistant Secretary;

(I) a General Counsel; and

(J) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

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[See section 206.]

[See section 207.]

[See section 208.]

[See section 209.]

[See section 210.]

[See section 211.]

[See section 212.]

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

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[See section 203(12).]	*(1) congressional relations functions;*
[See section 203(10).]	*(2) public information functions;*
[See section 203(13).]	*(3) management and budget functions;*
[See section 203(11).]	*(4) planning, evaluation, and policy development functions;*
[See section 203(14).]	*(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs;*
	(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities; and
	(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.
(d) The Assistant Secretary appointed pursuant to subsection (c)(1)(H) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.	
(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be com-	[See section 209.]

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pensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.	
(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.	*(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.*
	(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.
(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d), the President shall state the particular functions of the Department such individual will exercise upon taking office. [See also section 413.]	*(e) Except as otherwise provided by this Act—* *(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and* *(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.*

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FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to vocational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educa-

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tional institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;	
(8) administration of schools for the overseas dependents of personnel of the Department of Defense;	
(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;	
(10) public information;	[See section [illegible](c)(2).]
(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;	[See section [illegible](c)(4).]
(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;	[See section [illegible](c)(1).]
(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and	[See section [illegible](c)(3).]

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(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.	[See section 202(c)(5).]
OFFICE FOR CIVIL RIGHTS	*OFFICE FOR CIVIL RIGHTS*
SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(3)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.	*SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.* *(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.*
(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.	*(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.*

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(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ-such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

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OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed

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(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS-18 of the General Schedule by section 5332 of such title.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 203. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The

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under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF VOCATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Vocational, Adult, and Community Education, to be administered by the Assistant Secretary for Vocational, Adult, and Community Education appointed under section 202(c). The Assistant Secretary for Vocational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe. The Secretary, through the Assistant Secretary for Vocational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

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Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.

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OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(3)(A)(x) (including the functions of the Bureau for the Education and Training of the Handicapped), 301(b)(3)(G), and 301(b)(4), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator appointed under section 202(e).

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OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

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The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(e). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(3)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301(b)(3)(E), relating to Federal grants for telecommunications demonstrations; and

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[Sec. 303.]

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

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(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF BILINGUAL EDUCATION AND MINORITY AFFAIRS

SEC. 211. There is established in the Department an Office of Bilingual Education and Minority Affairs, to be administered by a Director of Bilingual Education and Minority Affairs, who shall be appointed by the Secretary and shall be compensated at the rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Director and the Secretary shall consult concerning policy decisions affecting education programs of the Department which affect minorities, including those programs which relate to bilingual education. The Director shall coordinate the administration of bilingual education programs by the Department. The Director shall report directly to the Secretary, and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. In carrying out the provisions of this section, the Director shall consult with the Director of the Office of Bilingual Education.

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OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There is established in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

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OFFICE OF GENERAL COUNSEL	*GENERAL COUNSEL*
SEC. 212. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.	*SEC. 211. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.*
OFFICE OF INSPECTOR GENERAL	*OFFICE OF INSPECTOR GENERAL*
SEC. 213. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.	
(b) The Inspector General Act of 1978 is amended— (1) by inserting in section 2(1) "the Department of Education," immediately after "Commerce,"; (2) in section 9(a)(1)— (A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and (B) by inserting immediately after subparagraph (B) the following new subparagraph: "(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspec-	*SEC. 212. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".* [See section 301(b).]

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tor General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;"; (3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and (4) by inserting in section 11(2) "Education," immediately after "Commerce,".	*(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".*
(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".	
INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION	*INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION*
SEC. 214. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.	*SEC. 213. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").*

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(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of recommendations concerning intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

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(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

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(D) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(E) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regu-

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(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

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lations. Within thirty days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.	
(c)(1) The Council shall be composed of twenty-five members. One member shall be the Under Secretary of Education. The President shall appoint—	*(c)(1) The Council shall have twenty members, appointed by the President as follows:*
(A) eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary);	*(A) six elected State and local officials with general government responsibilities;*
(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;	*(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;*
(C) two members from among governing boards of public and nonpublic postsecondary institutions; and	*(C) five representatives of public and private postsecondary education, including board members, administrators, and professors; and*

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(D) six members from among the public, including parents, teachers, students, and public interest groups.	*(D) four members of the public, including parents of students and students.*
(2) In making appointments under this subsection, the President shall— (A) Consult with a broad cross section of organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including but not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations; and	
(B) select individuals who represent a diversity of geographic areas and demographic characteristics.	*In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.*
(3) Not more than thirteen of the members of the Council may be members of the same political party.	
	(2) The Under Secretary shall be an ex officio member of the Council.
(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year,	*(3) Each member shall have a term of four years, except that—* *(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council*

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five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The Council shall elect one of its members as Chair of the Council.

(f) Any vacancy in the Council shall not affect its power to function.

(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

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beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

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(h) In order to carry out the provisions of this section, the Council is authorized to— (1) hold hearings either as a whole or as a subcommittee, for the purpose of discussion, coordination and review of (A) intergovernmental concerns and (B) issues concerning structural relationships between various Federal departments and agencies, as such concerns and issues relate to the functions of the Council specified in subsections (a) and (b); and (2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance. (i) The Council or any subcommittee shall not compel, the attendance or testimony of witnesses or the production of books, records, correspondence, memorandums, papers, or other documents.	
(j) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS–17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with	*(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.*

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such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 215. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) adequate procedures to assure the availability of information requested by the Secretary;

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(c) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 214. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

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(4) the improvement of the administration and coordination of federally funded education programs in carrying out its role of assisting State and local governments in their responsibility for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their worklife.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policymaking officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

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(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

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(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

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(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

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(d) In carrying out its functions under subsection (b)(5) the Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be

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(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[See sections 301(a) and 501.]

employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;

(6) the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

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(7) the National Institute of Handicapped Research of the Department of Health, Education, and Welfare; (8) the Interagency Committee on Handicapped Research; (9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and (10) the National Council on the Handicapped.	
(b)(1) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to— (A) the Education Division of the Department of Health, Education, and Welfare;	*Sec. 301. (a) There are hereby transferred to and vested in the Secretary—* *(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;*
(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and	
(C) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.	*(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;*

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(2) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare which are administered through the Office of the Secretary of Health, Education, and Welfare and which directly relate to functions transferred by this section.	
(3) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—	*(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—*
(A) under—	
(i) the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;	*(A) under the General Education Provisions Act;*
(ii) the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);	*(B) under the Elementary and Secondary Education Act of 1965;*
(iii) the Higher Education Act of 1965;	*(C) under the Higher Education Act of 1965;*
(iv) the Emergency Insured Student Loan Act of 1969;	
(v) the Act of August 30, 1890 (26 Stat. 417);	*(E) under the Act of August 30, 1890 (7 U.S.C. 321-328);*

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(vi) title II of the Elementary and Secondary Education Act of 1965;	[See subparagraph (B).]
(vii) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;	*(O) under the Alcohol and Drug Abuse Education Act;*
(viii) the International Education Act of 1966;	
(ix) the National Defense Education Act of 1958;	*(F) under the National Defense Education Act of 1958;*
(x) the Education of the Handicapped Act;	*(G) under the Education of the Handicapped*
(xi) the National Commission on Libraries and Information Science Act;	*(I) under the National Commission on Libraries and Information Science Act;*
(xii) the Vocational Education Act of 1963;	*(J) under the Vocational Education Act of 1963;*
(xiii) the Career Education Incentive Act; and	
(xiv) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council;	[See paragraph (A) and paragraph (8).]
(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;	*(H) under part B of title V of the Economic Opportunity Act of 1964;*
	(D) under the Education Amendments of 1976;

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(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;	*(J) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;*
(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;	*(K) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;* *(L) under the Model Secondary School for the Deaf Act;*
(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;	*(M) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;*
(F) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and	

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student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 30, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(4) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department

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(4)(A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

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of Health, Education, and Welfare under the Rehabilitation Act of 1973.	
(5) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.	[See subsection (a)(1).]
(6) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.	*(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;*
	(N) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and
[See section 301(b)(3)(A)(xiv).]	*(8) the Federal Education Data Acquisition Council and all functions vested in such Council.*
(7) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.	

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[See section 213(b)(2).]

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependents of personnel of the Department of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependents' Education Act of 1978).

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(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303.

[See section 302(a) and [illegible].]

(a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

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(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

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[See section 302(a).]

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

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TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a)(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this Act pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except the functions or programs or parts of programs, as determined by the Director of the Office of Management and Budget, after consultation with the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women; minorities, and the handicapped in careers in science;

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(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education; (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

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(D) the conduct of research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in section 301(a)(1) of this Act, no mission oriented research functions or programs of the National Science Foundation or of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) The annual report to be transmitted by the Secretary pursuant to section 427 shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs,

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(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the National Science Foundation, for coordinated planning and operation of the science education programs described in

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including measures to facilitate the implementation of successful innovations.	*subsection (a), including measures to facilitate the implementation of successful innovations.*
(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.	*(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the National Science Foundation Act of 1950 to initiate and conduct programs.*
TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE	*TRANSFERS FROM THE DEPARTMENT OF JUSTICE*
SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.	*SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.*
TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	*TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT*
SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.	*SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.*

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TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF LABOR	*TRANSFERS FROM THE DEPARTMENT OF LABOR*
SEC. 306. (a) There are transferred to the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.	*SEC. 302. (a) Notwithstanding the provision of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time, on or after the effective date of this Act, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.*
(b) The Secretary is authorized to conduct the functions transferred by subsection (a).	*(b) The Secretary is authorized to conduct the functions transferred by subsection (a).*
TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS	[Sec. [illegible](a).]
SEC. 307. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.	*(7) the Advisory Council on Education Statistics and all functions vested in such Council; and*
EFFECT OF TRANSFERS	*EFFECT OF TRANSFERS*
SEC. 308. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of	*SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department in-*

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any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

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cludes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

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(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS-16, GS-17, and GS-18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.	*(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.*
(3) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 210 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.	*(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 208 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.*
(4) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.	*(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position leaves such position.*

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(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position the individual occupied on the day before the effective date of this Act.

(c)(1) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(2) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of

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(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by section 209 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter

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title 5 of the United States Code. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment to that position.

(d) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(e)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

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of three years after the effective date of this Act or three years after the initial appointment to such position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of title 5, United States Code.

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(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

[See section 421(a)(2).]

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

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(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

(g) Notwithstanding the transfer of functions effected by section 303 (and the consequent transfer of personnel), personnel performing such functions shall be treated, for purposes of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

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ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report

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REDUCTION OF POSITIONS

SEC. 403. Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time permanent positions that perform functions to be transferred to the Department by this Act shall be reduced by 800 and thereafter the number of such positions shall not be increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section.

showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

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(b)(1) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to seventeen thousand two hundred and thirty-nine positions.

(2) For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

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EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION ON POSITIONS

SEC. 404. None of the limitations or computations required by section 403 shall be applicable to any individual employed pursuant to section 209 as a teacher, administrator, clerk, or secretary in an overseas school.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

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DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

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DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or offices vested by this Act in any organizational unit or component.

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(2) the abolition of organizational entities established by this Act; or (3) the alteration of the delegation of functions under this Act to any specific organizational entity. (b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities: (A) Office of Bilingual Education; (B) Teacher Corps; (C) Community College Unit; (D) National Center for Education Statistics; (E) National Institute of Education; (F) Office of Environmental Education; (G) Office of Consumers' Education; (H) Office of Libraries and Learning Resources; (I) Office of Indian Education; (J) Office of Career Education; (K) Office of Non-Public Education; (L) Institute of Museum Services; and (M) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.	

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(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.	
(c) On the effective date of this Act, the following entities shall lapse: (1) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education; (2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare; (3) the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare; and	[See section [illegible](a).]

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(4) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(d) Whenever the President exercises the authority under section 302(c), the Office of Dependents' Education of the Department of Defense shall lapse.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. (a) The Secretary is authorized to prescribe in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

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[Sec. 505.]

(c)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

RULES

SEC. 424. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

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(b) In promulgating such rules and regulations, the Secretary shall make all reasonable effort to alert the appropriate officials of the local education authorities as to the purpose and content of the proposed rule or regulation.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

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(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306 of this Act.

CONTRACTS

SEC. 425. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

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(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.	*(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to the extent provided in advance by appropriation Acts.*
TECHNICAL ADVICE	*TECHNICAL ADVICE*
SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.	*SEC. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.* *(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.*
REGIONAL AND FIELD OFFICES	*REGIONAL AND FIELD OFFICES*
SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.	*SEC. 426. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.*

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ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

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ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

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FACILITIES AT REMOTE LOCATIONS	*FACILITIES AT REMOTE LOCATIONS*
SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—	*SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:*
(1) emergency medical services and supplies;	*(1) emergency medical services and supplies: Provided, That such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term;*
(2) food and other subsistence supplies;	*(2) food and other subsistence supplies;*
(3) dining facilities;	*(3) dining facilities;*
(4) audiovisual equipment, accessories, and supplies for recreation and training;	*(4) audiovisual equipment, accessories, and supplies for recreation and training;*
(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;	*(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;*
(6) living and working quarters and facilities; and	*(6) living and working quarters and facilities; and*
(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.	*(7) transportation for dependents of employees to the nearest appropriate educational facilities.*

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(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 302, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

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(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

[See section 401(e).]

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(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).	*(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes; except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.*

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(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

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(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

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GIFTS AND BEQUESTS	*GIFTS AND BEQUESTS*
SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.	*SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.*

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WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available, to the extent provided in an appropriation Act and without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary finds to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and

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WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, in-

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the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.	*cluding the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.*
FUNDS TRANSFER	*FUNDS TRANSFER*
SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.	*SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.*
SEAL OF THE DEPARTMENT	*SEAL OF DEPARTMENT*
SEC. 426. The Secretary shall cause a seal of office to	*SEC. 434. The Secretary shall cause a seal of office to*

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be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

Sec. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department;

(C) the coordination of the functions of the Department; and

(D) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs, to

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be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

Sec. 435. The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions. Such report shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 425 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

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be accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes,

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State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.	
(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—	
(A) has made or is likely to make a material contribution to the work of the Department; and	
(B) could not otherwise participate fully and effectively in such consultation.	
(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.	
RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT	*RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT*
SEC. 428. (a) Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.	*SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.*
(b) Section 400A(a)(3)(B) of the General Education Provisions Act is amended to read as follows:	

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"(B) Each request for collection of information or data acquisition activities shall be submitted to the Director of the Office of Management and Budget by each relevant Federal agency at the same time that it is submitted to the Secretary for review and coordination under this section. Whenever the Director of the Office of Management and Budget exercises his authority under section 3509 of title 44, United States Code, he shall make a decision thereon within the review period provided in subsection (b) and shall furnish such decision to the Secretary and to the Federal Education Data Acquisition Council. The decision of the Director shall control, unless the Secretary, in carrying out the provisions of this section, determines that additional elements in the proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly in which case the decision of the Secretary shall control. If the Director does not exercise his authority under such section 3509, within the review period provided in subsection (b), the decision of the Secretary under this section shall control.".	
AUTHORIZATION OF APPROPRIATIONS	*AUTHORIZATION OF APPROPRIATIONS*
SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated for fiscal	*SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appro-*

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year 1980 and each succeeding fiscal year, such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act,

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priated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by

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personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

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this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

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AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate.

[See also section 412.]

If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

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AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315-5316), in an office terminated pursuant to this Act shall also terminate.

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INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to any function transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to

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INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Man-

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make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.	*agement and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.*
SAVINGS PROVISIONS	*SAVINGS PROVISIONS*
SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges— (1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and (2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.	*SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—* *(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and* *(2) are in effect at the time this Act takes effect;* *shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.*

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(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.	*(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.*

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(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.	*(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.*
(c) Except as provided in subsection (e)—	*(c) Except as provided in subsection (e)—*
(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and	*(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and*
(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.	*(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.*
(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.	*(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.*
(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capac-	*(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capac-*

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ity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

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ity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

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REFERENCE

Sec. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Education."

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REFERENCE

Sec. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

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	(2) by adding at the end thereof the following: "The Department of Education.".
(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "(15) Secretary of Education.".	*(c) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:* *"(15) Secretary of Education.".*
(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following: "(70) Under Secretary of Education.".	*(d) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:* *"(5) Under Secretary of Education.".*
(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:	*(e) Section 5315 of title 5 of the United States Code is amended—* *(1) by striking out paragraph (17) and inserting in lieu thereof* *"(17) Assistant Secretaries of Health and Human Services (4)."; and* *(2) by inserting immediately after paragraph (24) thereof the following:*
"(128) Assistant Secretaries of Education (6).	*"(25) Assistant Secretaries of Education (6).*
"(129) Director of the Office for Civil Rights of the Department of Education.	
"(130) General Counsel of the Department of Education.	*"(26) General Counsel, Department of Education.*

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"(131) Inspector General of the Department of Education."	*"(27) Inspector General, Department of Education.".*
(f)(1) Section 5316(41) of title 5, United States Code, is repealed.	*(f) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:*
(2) Section 5316 of such title is amended by adding at the end thereof the following:	
"(152) Administrator of Education for Overseas Dependents of the Department of Education.	
"(153) Additional Officer, Department of Education."	
	"(41) Officers, Department of Education, (5).".
	(g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".
(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—	*(i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—*
(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and	*(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and*
(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof	*(2) by striking out "of Health, Education, and*

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"the Department of Health and Human Services, the Department of Education,".

(h)(1) Section 203 of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting "Education, the Secretary of Health and Human Services,".

AMENDMENTS TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. (a) Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and

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Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services,".

(m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

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comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

(b) Section 303(c)(3) of such Act is amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ per centum of the amount allocated pursuant to section 202(a).".

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[Sec. [illegible].]

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

[Sec. [illegible].]

(h) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

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"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health, Edu-

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AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

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cation, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

(l)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensat-

AMENDMENTS TO THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

SEC. 511. (a)(1) The last sentence of section 1410(a)(1) of the Defense Dependents' Education Act of 1978 is amended by striking out "an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school" and inserting "an equal number of representatives of professional employee organizations,

ed" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

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school administrators, and representatives of organizations of parents of dependents enrolled in the school".

(2) The last sentence of section 1410(b) of such Act is amended by striking out "Secretary of Defense" and inserting "Secretary of Education, in consultation with the Secretary of Defense,"

(b)(1) Section 1411(a) of such Act is amended—

(A) by striking out "Defense" in the first sentence and inserting "Education", and

(B) by striking out paragraphs (1) through (3) and inserting the following:

"(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the Council;

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force, and

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(j) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection (a)(1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the 'principal officer')," after "the 'Assistant Secretary'),";

(2) by striking out "chairman" in such subsection and inserting in lieu thereof "co-chairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education,"; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

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"(4) a representative of the Secretary of Education and of the Secretary of Defense.".	
(2) Section 1411(b) of such Act is amended—	
(A) by striking out "three" and inserting "two"; and	
(B) by amending paragraph (1) to read as follows:	
"(1) of the members first appointed under such paragraph, six shall serve for a term of one year and six shall serve for a term of two years, as determined by the Secretary of Education at the time of their appointment, and".	
(c) Section 1411(c)(2) of such Act is amended to read as follows:	*(3) in subsection (c)—*
	(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and
	(B) by inserting after paragraph (1) the following new paragraph;
"(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—	*"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,".*
"(A) the development of an efficient mode of operation of the system in the Department of Education;	

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"(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

"(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system."

REDESIGNATION

SEC. 512. (a) Notwithstanding the provisions of section 601, the Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate

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REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or

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official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

COORDINATION OF PROGRAMS AFFECTING HANDICAPPED INDIVIDUALS

SEC. 513. The Secretary of Health and Human Services shall establish within the Office of the Secretary of Health and Human Services an identifiable administrative unit to identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, and to promote efficiency among such programs. Such unit shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

TRANSITION

SEC. 514. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

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the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such

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period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

SEC. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

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TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of

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(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses asso-

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any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

Passed the Senate April 30 (legislative day, April 9), 1979.

Attest:

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ciated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled.

While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

96TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ No. 96-326

DEPARTMENT OF EDUCATION ORGANIZATION ACT

SEPTEMBER 20 (legislative day JUNE 21), 1979.—Ordered to be printed

Mr. RIBICOFF, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 210]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education, having met, after full and free confererence, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Department of Education Organization Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Federal-State Relationships.
Sec. 104. Definitions.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.

Sec. 203. Office for Civil Rights.
Sec. 204. Office of Elementary and Secondary Education.
Sec. 205. Office of Postsecondary Education.
Sec. 206. Office of Vocational and Adult Education.
Sec. 207. Office of Special Education and Rehabilitative Services.
Sec. 208. Office of Education for Overseas Dependents.
Sec. 209. Office of Educational Research and Improvement.
Sec. 210. Office of Bilingual Education and Minority Languages Affairs.
Sec. 211. Office of General Counsel.
Sec. 212. Office of Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Federal Interagency Committee on Education.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Sec. 301. Transfers from the Department of Health, Education, and Welfare.
Sec. 302. Transfers from the Department of Defense.
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Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
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Sec. 411. General authority.
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Sec. 428. Authorization of appropriations.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocation of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Coordination of programs affecting handicapped individuals.
Sec. 511. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

TITLE I—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this Act are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States,

the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

FEDERAL-STATE RELATIONSHIPS

SEC. 103. (a) It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

DEFINITIONS

SEC. 104. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term "office" includes any office, institute, council, unit, organizational entity, or component thereof.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

PRINCIPAL OFFICERS

SEC. 202. (a)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(2)(A) The Under Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Under Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Under Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the

Under Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b)(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) an Assistant Secretary for Civil Rights; and

(G) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(c) There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act).

(d) There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents.

(f) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(g) Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 202(b). Notwithstanding the provisions of section 412 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 301(a)(3).

(b)(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(b). The Assistant Secretary shall administer such func-

tions affecting elementary and secondary education, both public and private, as the Secretary shall delegate.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF VOCATIONAL AND ADULT EDUCATION

SEC. 206. There shall be in the Department an Office of Vocational and Adult Education, to be administered by the Assistant Secretary for Vocational and Adult Education appointed under section 202(b). The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 207. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 202(b). Notwithstanding the provisions of section 412, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 301(a)(1) (with respect to the bureau for the education and training of the handicapped), 301(a)(2)(H), and 301(a)(4).

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 208. There shall be in the Department an Office of Education for Overseas Dependents, to be administered by the Administrator of Education for Overseas Dependents appointed under section 202(e). Notwithstanding the provisions of section 412, the Secretary shall delegate to the Administrator all functions, other than administrative and support functions, transferred to the Secretary under section 302.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 209. There shall be in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed *under section 202(b). The Assistant Secretary shall administer such functions concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate.*

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There shall be in the Department an Office of Bilingual Education and Minority Languages Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(b). The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978 (as amended by section 508(n) of this Act).

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There shall be in the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereafter referred in this section as the "Council"). The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(B) make recommendations for the improvement of the administration and operation of Federal education and education related programs;

(C) promote better intergovernmental relations;

(D) submit, biennially or more frequently (if determined necessary by the Council), a report to the Secretary, the President, and the Congress (i) reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and (ii) assessing both the extent to

which Federal objectives are achieved and any adverse consequences of Federal actions.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the Department concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State and local governments and public and private educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rule or regulation. If a report by the Council concerns a proposed rule or regulation, it shall be submitted to the Secretary within the time established for public comment on the proposed rule or regulation, and shall be placed in the file of the proceeding concerning the proposed rule or regulation.

(c)(1) The Council shall be composed of twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, from among board members, chief education officials, administrators, and teachers;

(C) five representatives of public and private postsecondary education, from among board members, chief education officials, administrators, and professors; and

(D) four members of the public, including parents of students and students.

(2) In making appointments under this subsection, the President shall—

(A) consult with representatives of the groups specified in subparagraphs (A) through (D) of paragraph (1); and

(B) select individuals who represent a diversity of geographic areas and demographic characteristics.

(3) The Under Secretary shall be an ex officio member of the Council.

(4) The term of office of a member of the Council shall be four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(5) The President shall designate one member to chair the Council.

(6) Any vacancy in the Council shall not affect its authority.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council. The Secretary shall provide the Council with such other staff, facilities, services, and support as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the "Committee"). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

(c) The Committee shall be composed of the Secretary, who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(f) The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) The Secretary and the head of each agency represented on the Committee under subsection (c) shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are transferred to the Secretary—

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health,

Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act;

(B) the Elementary and Secondary Education Act of 1965;

(C) the Higher Education Act of 1965;

(D) the Education Amendments of 1978;

(E) the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) the National Defense Education Act of 1958;

(G) the International Education Act of 1966;

(H) the Education of the Handicapped Act;

(I) part B of title V of the Economic Opportunity Act of 1964;

(J) the National Commission on Libraries and Information Science Act;

(K) the Vocational Education Act of 1963;

(L) the Career Education Incentive Act;

(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(N) the Model Secondary School for the Deaf Act;

(O) subpart A of part IV of title III of the Communications Act of 1934 with respect to the telecommunications demonstration program;

(P) section 203(k) of the Federal Property and Administrative Services Act of 1949 with respect to donations of surplus property for educational purposes; and

(Q) the Alcohol and Drug Abuse Education Act;

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil Rights which relate to functions transferred by this section;

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act;

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973;

(5) all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare, and of the Director thereof;

(6) all functions of the Advisory Council on Education Statistics; and

(7) all functions of the Federal Education Data Acquisition Council.

(b) There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2);

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973;

(4) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(5) the Advisory Council on Education Statistics;

(6) the Federal Education Data Acquisition Council; and

(7) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education functions transferred by this section.

(d) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a) Notwithstanding the provisions of section 601 of this Act, at such time not later than three years after the effective date of this Act, and in such manner, as the President may designate, there shall be transferred to the Secretary all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) relating to the operation of overseas schools for dependents of the Department of Defense and all functions of the Secretary of Defense and of the Department of Defense (or any officer or component thereof) under the Defense Dependents' Education

Act of 1978. There shall be transferred to the Department the offices established by such Act.

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the functions transferred under subsection (a).

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing the plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools. The plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after the effective date of this Act as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFERS OF PROGRAMS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a)(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to the effective date of this Act pursuant to the National Science Foundation Act of 1950, except the programs or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) The annual report to be transmitted by the Secretary pursuant to section 426 shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as *may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.*

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS-16, GS-17, and GS-18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 209 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 209 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS-16 of the General Schedule under section 5332 of such title.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire on the later of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in

applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function or office transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function or office transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f) For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

Sec. 402. The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

PERSONNEL REDUCTION AND ANNUAL LIMITATIONS

Sec. 403. (a)(1) Notwithstanding any other provision of this Act, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated.

(3) If the President transmits any reorganization plan under chapter 9 of title 5, United States Code, which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this Act shall be reduced by 500.

(c)(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5, United States Code, and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

(d) The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

GENERAL AUTHORITY

SEC. 411. (a) In carrying out any function transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) The Secretary is authorized, subject to the requirements of section 202(f), to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b);

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this Act.

(b)(1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of Bilingual Education;
(B) the Teacher Corps;
(C) the Community College Unit;
(D) the National Center for Education Statistics;
(E) the National Institute of Education;
(F) the Office of Environmental Education;
(G) the Office of Consumers' Education;
(H) the Office of Libraries and Learning Resources;
(I) the Office of Indian Education;
(J) the Office of Career Education;
(K) the Office of Non-Public Education;
(L) the bureau for the education and training for the handicapped;
(M) the Institute of Museum Services; and
(N) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary con-

taining a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

RULES

Sec. 414. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306.

CONTRACTS

Sec. 415. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 421.

REGIONAL AND FIELD OFFICES

Sec. 416. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

Sec. 417. (a) The Secretary is authorized—

  (1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

    (A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act);
    (B) laboratories;
    (C) research and testing sites and facilities;
    (D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 418. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be creditea to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 419. (a)(1) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(2) Notwithstanding the tranfer of functions from the Secretary of Defense to the Secretary under section 302 (and the consequent transfer of personnel), all personnel performing such functions shall be treated, for the purpose of access to services and facilities pro-

vided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 420. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 421. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

TECHNICAL ADVICE

SEC. 422. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

WORKING CAPITAL FUND

SEC. 423. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 424. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF DEPARTMENT

SEC. 425. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 426. (a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(b) The report required by subsection (a) shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 415 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 427. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 428. Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this sub-

section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. (a)(1) On the effective date of this Act, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(2) Whenever the President exercises the authority under section 302(a), the Office of Dependents' Education of the Department of Defense shall terminate.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, *allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this Act. The Director shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.*

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

> *(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Secretary or the Department, and*
>
> *(2) which are in effect at the time this Act takes effect,*

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

> *(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and*
>
> *(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.*

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

Sec. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

Sec. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this Act transfers such functions.

AMENDMENTS

Sec. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by inserting immediately after paragraph (4) the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof the following:

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(f) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (41); and

(2) by inserting after paragraph (36) the following new paragraphs:

"(37) Additional officers, Department of Education, (4).".

"(38) Administrator of Education for Overseas Dependents, Department of Education.".

(g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(h) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education, educational programs conducted for offenders, institutional training, health care, child care, and other supportive services, and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof a comma and the following: "the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 302(c), by striking out paragraph (3) and inserting in lieu thereof the following:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).";

(4) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,".

(5) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(6) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(7) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence "of Health and Human Services, the Secretary of Education"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof "of Health and Human Services, the Department of Education".

(j) The Defense Dependents' Education Act of 1978 is amended—

(1) in section 1410(a)(1), by striking out "representatives of sponsors" and inserting in lieu thereof "parents";

(2) in section 1410(b), by striking out "Secretary of Defense" and inserting in lieu thereof "Secretary of Education, in consultation with the Secretary of Defense,";

(3) in section 1411(a), by striking out "Department of Defense" and inserting in lieu thereof "Department of Education";

(4) in section 1411(a)(1), by striking out everything after "Logistics" and inserting in lieu thereof ", and the Administrator of Education for Overseas Dependents of such department, who shall be co-chairman of the Council;"

(5) in section 1411(a), by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of Education and of the Secretary of Defense.";

(6) in section 1411(b)(1), by striking out "Assistant Secretary" and inserting in lieu thereof "Secretary of Education";

(7) in section 1411(c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,"; and

(8) in section 1411(c)(5) (as so redesignated), by striking out "Assistant Secretary" and inserting in lieu thereof "Secretary of Education".

(k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

(l)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a), be deemed to be permanent positions transferred pursuant to title V of this Act.

(m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

(n) The Inspector General Act of 1978 is amended—

(1) in section 2(1), by inserting "the Department of Education," immediately after "Commerce,";

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) in section 11(1), by inserting "Education," immediately after "Commerce,";

(4) in section 11(2), by inserting "Education," immediately after "Commerce,"; and

(5) by amending the title to read as follows: "An Act to establish Offices of Inspector General within various departments and agencies, and for other purposes.".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services *(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this Act.*

COORDINATION OF PROGRAMS AFFECTING HANDICAPPED INDIVIDUALS

SEC. 510. The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

TRANSITION

SEC. 511. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979—

(1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title; and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

Sec. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

Abe Ribicoff,
John Glenn,
Carl Levin,
Charles H. Percy,
Jacob Javits,
Managers on the Part of the Senate.
Jack Brooks,
Don Fuqua,
Dante B. Fascell,
Fernand J. St Germain,
Elliott H. Levitas,
Frank Horton,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Section 1—Short title; table of contents

The Senate and House provisions are substantially identical.

The Senate recedes.

Title I

Section 101—Findings

Section 101(1). The Senate and House provisions stating education is fundamental to the development of the Nation are substantially identical.

The conference agreement is the House amendment with the words "as a whole" deleted.

Section 101(2). Both the Senate bill and the House amendment state that there is a continual need to ensure equal access to education; however, the House amendment adds that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex.

The conference agreement states there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality and such educational opportunities should not be denied because of race, creed, color, national origin or sex. The substitute language is not intended to change or affect existing law or judicial precedent.

Sections 101(3) and 101(4). The Senate bill states that the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities and families. The House amendment states that parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role. The Senate bill further states that, in our Federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments.

The conference agreement includes the House amendment and the latter Senate provision.

Section 101(5). The House amendment states the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the work place, the community, and the home. The Senate bill has no comparable provision.

The Senate recedes.

Section 101(6). The Senate bill states that the importance of education is increasing due to new technologies and alternative approaches to traditional education. The House amendment has no comparable provision.

The House recedes.

Section 101(7). The House amendment states that improvement in the management of Federal education programs is needed to support more effectively State, local and private institutions, students, and parents in carrying out their educational responsibilities. The Senate bill contains no comparable provision. Also, both the Senate bill and the House amendment comment on the need for improved coordination. The Senate bill states there is a lack of coordination of Federal resources for State, local and tribal governments in private and nonpublic educational institutions. The House amendment states there is a need for improved coordination of Federal education and related programs.

The conference agreement is the House amendment with an additional reference to the need to improve coordination.

Section 101(8). The Senate bill states that the dispersion of education programs across a large number of Federal agencies has led to fragmentation, duplication, and often inconsistent Federal policies relating to education. The House amendment contains no comparable provision.

The House recedes.

Section 101(9). The Senate bill states that Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the Executive Branch. The House amendment states that the current structure of the Executive Branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues. The House amendment also has a separate provision stating there is no single full-time Federal education official directly accountable to the President, the Congress, and the people.

The House recedes with an amendment retaining the House language stating there is no single full-time Federal education official directly accountable to the President, the Congress, and the people.

Section 102—Purposes

The House amendment declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. The Senate bill has a similar statement in the findings section.

The Senate bill's purposes are stated in the context of the purpose of this Act. The House amendment's purposes are stated as purposes of the Department.

The Senate bill states that one of the purposes of the Act in establishing the Department of Education is to enable education to receive appropriate emphasis at the Federal level.

The conference agreement is the House amendment with the purposes stated as purposes of the Act.

Section 102(2). The Senate bill states that one of the purposes is to supplement and complement the efforts of States, local school systems, and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education. The House amendment states that one of the purposes is to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education.

The House recedes with an amendment deleting the reference to tribal governments.

Section 102(3). The Senate bill and the House amendment are substantially identical with respect to a purpose of the Act regarding the encouragement of increased parent, public and student involvement.

The Senate recedes.

Section 102(4). The Senate bill and the House amendment are similar in that they deal with research, evaluation, and information. However, the Senate bill includes an additional provision relating to the implementation of such research at the State and local level.

The Senate recedes.

Section 102(5). The Senate bill and the House amendment are similar with respect to a purpose of the Act regarding the improvement of coordination of Federal education programs. However, the Senate amendment includes provisions for the use of technical assistance in the coordination of education activities.

The Senate recedes.

Section 102(6). The House amendment states that a purpose of the Department is to improve management and efficiency in Federal education activities. The Senate has no comparable provision.

The Senate bill states a purpose of the Department is to supplement and complement the efforts of State, local, tribal, public and nonpublic agencies by providing support to their articulated educational needs, as well as reducing unnecessary and duplicative constraints, including unnecessary paperwork.

The conference agreement is a combination of the Senate bill and the House amendment.

Section 102(7). The House amendment states that a purpose of the Department is to increase accountability. The Senate has no comparable provision.

The Senate recedes.

Section 102(8). The House amendment states that one of the purposes of the Department is to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis. The Senate bill has no comparable provision.

The House recedes.

Section 103—Federal control of education

Both the Senate bill and the House amendment have a provision concerning the Department's limitations with respect to State and local prerogatives in education. The Senate bill states that the establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments. The Senate bill also states that it is the intention of Congress in establishing the Department that the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs are protected. The Senate bill also states that this Act does not require any particular organization of the Department's programs at the State level.

The House amendment prohibits any provision of law relating to a program administered by the Secretary or by any other executive branch officer or agency from being construed to authorize any direction, supervision or control over local prerogatives, except to the extent specifically authorized by Federal statute. The House amendment states that the Department's regulations do not have the standing of a Federal statute for purposes of section 103. The House amendment prohibits the Secretary or the Department from withholding funds from an educational institution due to any requirement relating to local prerogatives, except when specifically authorized by law. The House amendment prohibits the Secretary from requiring, as a condition of eligibility for Federal assistance, the transportation of students or teachers to achieve racial balance or to carry out a desegregation plan. The House amendment also prohibits the Secretary for a period of eight months after the effective date of this Act from withholding, suspending or terminating funds from a State because of the State's organizational structure.

The conference agreement is a combination of the Senate provisions concerning the protection of State and local responsbility for education and the House provision which prohibits the Secretary from interfering with local prerogatives. In addition, the conference agreement includes the House provision which prohibits the Secretary for an 8-month period from withholding, suspending or terminating funds from a State because of a State's organizational structure.

Section 104—Definitions

The Senate bill and the House amendment provide for similar definitions. Separate definitions are provided in the Senate bill for "Assistant Secretary," "Director", "Administrator", "Council," and "Committee." The House amendment provides separate definitions for "State," "private" and "private educational" and "office" and "unit."

The Senate recedes.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Section 201—Establishment

The Senate bill contains a special provision establishing the Department, and includes the provision for the Secretary in the section on "principal officers."

The House amendment establishes the Department and provides for the Secretary in the same subsection.

The conference agreement adopts the language of the House amendment with an amendment to place "Establishment" in one section (with provision for the Secretary), and "Principal Officers" in a separate section (202).

Section 202—Principal officers

UNDER SECRETARY

Both the Senate bill and the House amendment provide for an Under Secretary, who is responsible for intergovernmental functions.

The Senate bill has additional provisions relating to the Under Secretary. It states that the Under Secretary shall carry out the Department's functions in a manner which supplements and complements States' and localities' efforts. The Under Secretary is also required to consult with State and local officials on the impact of the Department's rules and regulations. Local authorities may inform the Under Secretary of conflicting rules and regulations. The Under Secretary is required to report conflicts to the appropriate Department or agency if he or she determines there is an existing conflict. The Under Secretary, along with the appropriate Federal agency, has a 90-day period to recommend resolution of any conflicts.

The House amendment states that the Under Secretary shall be responsible for intergovernmental relations.

The House recedes with an amendment deleting the provision providing for a 90-day period to recommend resolution of conflicts.

Section 202(b)—Assistant Secretaries

The Senate bill provides for six Assistant Secretaries and for a Director of the Office for Civil Rights, a General Counsel and an Inspector General. The House amendment provides for six Assistant Secretaries. Five of these Assistant Secretaries have functions which are nearly identical to the functions of the Assistant Secretaries named in the Senate bill. The House amendment also provides for an Assistant Secretary for Civil Rights, a General Counsel, and an Inspector General.

The Senate bill provides a specific name for most officers. In other sections of title II, the House bill states that an Assistant Secretary shall head a named office but does not give a specific name to each Assistant Secretary, with the exception of the Assistant Secretary for Civil Rights and the Assistant Secretary for Vocational and Adult Education.

Both the Senate bill and the House amendment provide that the Assistant Secretaries shall report directly to the Secretary, including the civil rights officer. The Senate bill also provides that the General Counsel shall report directly to the Secretary. The House amendment has no such provision.

The conference agreement adopts the approach of the Senate bill with respect to the specific naming of principal officers. The substitute names all officers in the Senate bill with the following modifications.: The "Director" of the Office for Civil Rights is changed to "Assistant Secretary"; the word "Community" is deleted from the Senate's "Assistant Secretary for Vocational, Adult, and Community Education"; the reference to the Director of the Office Bilingual Education and Minority Affairs is deleted from the list of principal officers; the one senate's additional assistant secretary is deleted; and the Inspector General is appointed in accordance with the Inspector General Act of 1978.

Section 202(d)—Additional officers

The Senate bill provides for one additional Executive Level V officer.

The House amendment provides for five additional Executive Level V officers.

The conference agreement provides for four additional, unnamed officers (all Level V) to perform the list of functions outlined in that subsection.

PLANNING AND EVALUATION

The Senate bill provides that the one unnamed Assistant Secretary shall perform planning and evaluation functions.

The House amendment would assign those functions to the additional Level V officers.

The conference agreement (subsection (d)(5)) includes the planning and evaluation functions in those of the four unnamed Level V additional officers.

RURAL EDUCATION

The House amendment requires the Secretary to assign to one of the principal officers responsibilities for programs relating to rural education.

The Senate bill and the House amendment also contain provisions on rural family education in the section providing for an Office of Vocational and Adult Education.

The conference agreement deletes the House provision relating to rural education from the principal officers section, and instead includes that authority in Sec. 206, "Officer of Vocational and Adult Education."

REALLOCATION OF FUNCTIONS

The House amendment allows the Secretary to allocate and reallocate functions among subordinates in the Department, and name and rename their titles.

The Senate bill deals with this authority in the Reorganization Section.

The conference agreement deletes the language of the House amendment concerning reallocation of functions and renaming of titles. The authority is dealt with in the Reorganization section of the agreement.

Section 202(e)—Overseas education officer

The Senate bill establishes the Administrator of Education for Overseas Dependents.

The House amendment states that the director of an office to administer funds for the education of overseas dependents shall be one of the officers provided for by the Principal Officers section.

The House recedes.

Section 203—Office for Civil Rights

Both the Senate bill and the House amendment provide for an Office for Civil Rights. The Senate bill provides that the Office be administered by a Director. The House amendment provides that the Office be headed by an Assistant Secretary.

The conference substitute is the language of the House amendment.

Subsection (b)(1)

The Senate bill provides that the Director submit an annual report directly to the Secretary, the President, and to Congress.

The House amendment also requires an annual report, and explicitly states that the report shall be transmitted to the Secretary and the Congress by the Assistant Secretary without further clearance and approval, although the Secretary is to be provided in advance an opportunity to append comments to the report to the Congress.

The Senate recedes with an amendment that the annual reports be submitted to the President in addition to the Congress and the Secretary.

Subsection (c)

The House amendment has additional provisions which authorize the Assistant Secretary for Civil Rights to collect data necessary to ensure compliance, to employ necessary officers and employees, including staff attorneys, to enter into contracts and other service arrangements, and to obtain services of experts and consultants authorized by section 3109 of title V at rates not to exceed grade GS-18.

The Senate bill has no comparable provision.

The Senate recedes.

Section 204—Office of Elementary and Secondary Education

Both the Senate bill and the House amendment provide for an Office of Elementary and Secondary Education. The Senate bill states that the Office shall be administered by the Assistant Secretary for Elementary and Secondary Education.

The House amendment states that the functions of the Office (affecting both public and private education) shall be administered by one of the appointed Assistant Secretaries.

The House recedes with an amendment of the House amendment stating the Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate.

Section 205—Office of Postsecondary Education

Both the Senate bill and the House amendment provide for an Office of Postsecondary Education. The Senate bill states that the Office shall be administered by the Assistant Secretary for Postsecondary Education.

The House amendment states the functions of the Office (affecting both public and private education) shall be administered by one of the appointed Assistant Secretaries. The House amendment provides that the Assistant Secretary for this Office shall be the principal adviser to the Secretary on public and private postsecondary education matters.

The conference substitute is the Senate bill with the addition of the House amendment stating the Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

Section 206—Office of Vocational and Adult Education

Both the Senate bill and the House amendment provide for an Assistant Secretary for Vocational and Adult Education (the Senate bill includes the word "Community" in the Assistant Secretary's name). The Senate bill provides for an Office of Vocational, Adult, and Community Education.

The House amendment does not establish an office. The House amendment provides that the Assistant Secretary for Vocational and Adult Education shall be the principal adviser to the Secretary on matters affecting vocational and adult education.

The conference agreement is the language of the House amendment with the inclusion of the Senate language which requires that an Office be established. The word "Community", which was included in the Senate bill for the title of this Assistant Secretary and respective office, was deleted. The conferees intend that community education programs be closely related to vocational and adult education programs and activities of the Department.

Section 207—Office of Special Education and Rehabilitative Services

Both the Senate bill and the House amendment establish an Office of Special Education and Rehabilitation Services. The Senate bill states that the Office shall be administered by the Assistant Secretary for Special Education and Rehabilitative Services. The House amendment states that the Office of Special Education and Rehabilitative Services shall be administered by one of the appointed Assistant Secretaries.

The Senate bill states that the vocational rehabilitation programs as well as the functions of the Bureau for the Education and Training of the Handicapped transferred to the Department are specifically delegated to the Assistant Secretary for Special Education and Rehabilitative Services. The House amendment provides that the Assistant Secretary shall administer such functions affecting special education and rehabilitative services as are delegated by the Secretary and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitative services.

The House recedes.

Section 208—Office of Education for Overseas Dependents

Both the Senate bill and the House amendment establish an office for overseas dependents' education. The Senate bill names the office the "Office of Education for Overseas Dependents"; the House amendment does not give the office a name, but provides for an office to administer functions relating to the education for overseas dependents.

The Senate provision states the office shall be headed by the Administrator established by section 202. The House amendment provides for a director of the office who shall be one of the officers appointed under section 202.

The conference agreement adopts the language of the Senate bill with an amendment to provide simply that the Secretary shall delegate to the Administrator all functions of the Department of Defense transferred under Sec. 302 (notwithstanding the provisions of Sec. 422, "Delegation" provision).

Section 209—Office of Educational Research and Improvement

Both the Senate bill and the House amendment establish an Office of Educational Research and Improvement.

The Senate bill states that the Office shall be administered by the Assistant Secretary for Educational Research and Improvement; the House amendment states that the Office shall be headed by one of the appointed Assistant Secretaries. The Senate bill states specifically that the functions to be delegated to the Assistant Secretary for Educational Research and Improvement relate to the Fund for the Improvement of Postsecondary Education (FIPSE), Federal grants for telecommunications demonstrations, and science education.

The House amendment states that the Assistant Secretary of the Office shall administer delegated functions with respect to research, development, demonstration, dissemination, evaluation, and assessment activities.

The Senate recedes.

Section 210—Office of Bilingual Education and Minority Language Affairs

The Senate bill provides for an Office of Bilingual Education and Minority Affairs while the House amendment provides for an Office of Bilingual Education and Minority Languages Affairs. Both Senate bill and the House amendment provide for a Director of the Office.

The Senate bill states that the Director of the Office shall be compensated at a GS-18 level. The Senate bill states the Director shall also consult with the Director of the Office of Bilingual Education (transferred from HEW.)

The conference agreement is the language of the House amendment with an amendment requiring the Director to consult with the Secretary concerning policy decisions affecting minority languages affairs. The specification of a GS-18 rating for the Director is also deleted. The conferees wish to indicate their intentions that this official should be so classified by the Office of Personnel Management.

Section 211—Office of General Counsel

Both the Senate bill and the House amendment provide for a General Counsel. The Senate bill also establishes an Office of General Counsel and states the General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

The House amendment has no comparable provision.

The House recedes.

Section 212—Office of Inspector General

Both the Senate bill and the House amendment provide for an Inspector General in the Department by amending the Inspector General Act of 1978 to add its coverage to the Department of Education. The Senate bill has additional technical conforming amendments to the Inspector General Act and also provides for the transfer of the functions relating to education performed by the HEW Inspector General. The House amendment transfers these functions in Section 301.

The House recedes.

Section 213—Intergovernmental Advisory Council on Education

Both the Senate bill and the House amendment provide for the Council.

Subsection (a)—Establishment

The Senate bill states the Council shall provide assistance and made recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The House amendment simply establishes the Council.

The House recedes.

Subsection (b)—Functions

The functions of the Council specified in the Senate bill and the House amendment are substantially identical.

The House recedes with an amendment which states that the Council shall provide a forum for representatives of Federal, State and local governments and public and private educational entities to discuss educational issues.

Subsection (b)(1)(D)—Report

Both the Senate bill and the House amendment require a report by the Council to the President and the Secretary. The Senate also requires that the report be submitted to the Congress.

Both the Senate bill and the House amendment have similar language requiring the report to include a review of the impact of Federal education activities upon States and localities.

The Senate bill requires that the Council assist the Secretary in conducting conferences to assess the contribution of States, and localities to the delivery of equitable, high quality and effective education. The House has no similar provision.

The House amendment has an additional provision requiring that the report include an assessment of compliance with the House section prohibiting Federal control of education.

The conference agreement provides that the Council submit a report, biennially or more frequently, if the Council deems it necessary. The agreement contains the Senate provision requiring that the report be submitted to the Congress. The agreement includes the House provision requiring that the report include an assessment of compliance with Section 103. It omits the Senate requirement authorizing the Council to assist the Secretary in conducting conferences.

Subsection (b)(2)—Review of rules and regulations

The Senate bill has an additional provision that the Council may review the Department's existing and proposed rules or regulations to determine their impact upon States and localities and public and nonpublic education institutions. If a report of any such review is submitted to the Secretary, the Secretary has 30 days to provide a written response to the Council's recommendations. If the Council's report pertains to proposed rules or regulations, the Council's comments and the Secretary's response are part of the public record.

The House amendment has no comparable provision.

The conference agreement includes the Senate provision providing authority for the Council to review existing and proposed rules or regulations of the Department and the requirement that, if the Council's comments concern proposed rules or regulations, the Council's comments and the Secretary's response be placed in the file of the proceeding. The Senate's 30-day mandatory response provision is deleted.

Subsection (c)(1)—Council membership

Both Senate bill and House amendment provide for the participation on the Council of State and local representatives, private, postsecondary and elementary education representatives, school board members and administrators, and parents, teachers, students and the public. The Senate bill provides for 25 members and the House amendment provides for 20 members, appointed by the President. The Senate and House versions differ with respect to the groupings of membership and the number of members within each group as follows:

A. The Senate bill provides for eight members from among State officials—governors, legislators, boards of education, and chief education officials. The House amendment provides for six elected State and local officials with general government responsibilities.

The Senate recedes.

B. The Senate bill provides for eight members among local or regional elected general government officials, local boards of education, public and nonpublic school administrators and tribal governments. The House amendment provides for five representatives of public and private elementary education.

The conference agreement is the House provision with chief education officials included as an additional category.

C. The Senate bill provides for two members from governing boards of public and nonpublic postsecondary institutions. The House amendment provides for five representatives of public and private postsecondary education.

The conference agreement is the House provision with chief education officials included as an additional category.

D. Both the Senate bill and the House amendment provide for public membership. The Senate bill provides for six members from among the public, including parents, students and public interest groups. The House amendment provides for four members of the public, including parents of students and students.

The Senate recedes.

The Senate bill provides that not more than 13 Council members may be members of the same political party. The House amendment has no comparable provision.

The Senate recedes.

Subsection (c)(3)—Relationship to Under Secretary

The House amendment states the Under Secretary shall be an ex officio member of the Council. The Senate bill states the Under Secretary shall be one of the 25 members appointed to the Council.

The Senate recedes.

Subsection (c)(4)—Terms of membership

Both the Senate bill and the House amendment provide that Council members shall have a four-year term, and provide for varying terms of office for the Council members during the first four years.

The House amendment states no official appointed as a member may serve on the Council after the expiration of the office which qualified the member for the appointment.

The Senate bill would permit service after such expiration of such office.

The Senate recedes.

Subsection (c)(5)—Chair

The Senate bill states the Council shall elect the Chair of the Council.

The House amendment states the President shall designate the Chair of the Council.

The Senate recedes.

Subsection (c)(6)—Vacancy

The Senate bill provides for the Council to function notwithstanding a vacancy.

The House amendment has no comparable provision.

The Senate recedes.

COMPENSATION OF MEMBERS

The Senate bill provides for each Council member to be compensated at a GS-18 rate during the time the member is participating in official duties of the Council. The Senate version also provides for reimbursed travel, subsistence and other necessary expenses for the members.

The House amendment has no comaparable provision.

The Senate recedes.

HEARINGS

The Senate bill authorizes the Council to hold hearings and to request the cooperation and assistance of Federal departments and agencies.

The House amendment has no comparable provision.

The Senate recedes.

WITNESSES AND MATERIALS

The Senate bill states that the Council or any subcommittee shall not compel the attendance or testimony of witnesses or the production of books, records, correspondence, memoranda, papers or other documents.

The House amendment has no comparable provision.

The Senate recedes.

Subsection (d)—Executive Director, Support Services

Both the Senate bill and the House amendment provide for an executive director for the Council. The Senate bill has an additional provision providing for the compensation of the director at a GS-17 rate. Both the Senate bill and the House amendment state the Secretary shall provide necessary staff and support services to the Council.

The Senate recedes.

Section 214—Federal Interagency Committee on Education

Both the Senate bill and the House amendment establish an interagency coordinating committee. The language of both bills is modeled after the existing Federal Interagency Committee on Education, which presently exists by Executive Order.

Subsection (a)—Establishment, title

The Senate bill retains the title, "Federal Interagency Committee on Education," while the House amendment names the committee the "Interdepartmental Education Coordinating Committee."

The House recedes.

Subsection (b)—Duties

The duties of the committee in both versions are similar.

The Senate bill requires the Council to make recommendations concerning the improvement of the administration and coordination of federally funded vocational education and training programs. The House amendment has no comparable provision.

The House amendment requires the Council to review and assess parent and student participation in the overall education decisionmaking process and in specific education programs. The Senate has no comparable provision.

The Senate recedes.

Subsection (c)—Membership

The Senate bill specifically lists the 16 agencies from which senior policymaking officials shall be appointed to the Council.

The House amendment does not list the members nor state the number of members, but states the Committee shall be composed of representatives from Federal agencies, commissions, and boards that the President deems appropriate.

The Senate recedes.

Subsection (d)—Observers

With respect to observers, the Senate bill authorizes the Secretary to invite representatives of other agencies than those designated. The House amendment allows the Director of the Office of Science and Technology Policy to send staff members to meetings of the committee.

The Senate recedes.

Subsection (e)—Vocational education study

The Senate bill requires the committee to conduct a study and report to the Secretary and Congress on the effectiveness and coordination of Federal vocational education and training programs.

The House amendment has no comparable provision.

The House recedes.

Subsection (f)—Meetings, subcommittees

The Senate bill requires the committee to meet at least twice a year.

The House amendment has no comparable provision.

The House amendment authorizes the Secretary to establish subcommittees of the committee.

The Senate bill has no comparable provision.

The conference agreement adopts the Senate provision with respect to meetings, and adopts the House provision with respect to subcommittees.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301—Transfers From the Department of Health, Education, and Welfare

Subsection (a)(1)

The Senate bill for the purposes of transferring certain offices and agencies from HEW, transfers to the Department and vests with the Secretary officers, employees, assets, liabilities, contracts, property, etc., from those agencies and offices.

The House amendment has no comparable provision in this section. Similar language, in section 501 of both the Senate bill and the House amendment, covers generally such transfers from each Department or agency.

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The conference agreement retains the general transfer provision in section 501 of the Senate bill and the House amendment and deletes the Senate provision in Section 301.

Both the Senate bill and the House amendment transfer to the Secretary functions of the HEW Education Division (which includes the Commissioner of Education) and the Assistant Secretary for Education. The House amendment includes the transfer of offices as well as functions. Both the Senate bill and the House amendment transfer HEW advisory committees, and the House amendment permits the Secretary to combine or terminate such committees. The Senate bill specifically transfers functions of the Office of the HEW Secretary relating to functions transferred in this section. The House amendment contains no comparable provision.

The conference agreement transfers to the Secretary all functions of the Assistant Secretary for Education, Commissioner of Education, and the functions of their offices and of the entire HEW Education Division. The agreement specifically transfers HEW education advisory committees in subsection (b) (7), and the reference of the House amendment to combining and abolishing advisory committees is deleted. The agreement also deletes the provision of the Senate bill specifically transferring functions of the Office of the HEW Secretary.

Subsection (a) (2)

The Senate bill and the House amendment transfer to the Secretary functions (offices also in the House) of the HEW Secretary under several specific education authorities.

The conference agreement combines the Senate and House provisions to transfer functions of the HEW Secretary under the education authorities to the Secretary.

STUDENT LOAN PROGRAMS

The Senate bill transfers from HEW functions relating to the Nursing and Health Professions Student Loan Programs.

The House amendment has no comparable provision.

The Senate recedes.

SURPLUS PROPERTY

The House amendment transfers functions relating to the disposal of surplus property for educational or public health purposes.

The Senate bill has no comparable provision.

The Senate recedes with an amendment limiting the disposal authority to educational purposes (subsection (a) (2) (P)).

VOCATIONAL REHABILITATION PROGRAMS

Both the Senate bill and the House amendment transfer the vocational rehabilitation programs of HEW to the Department.

The Senate bill specifically transfers all functions of the HEW Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research.

The House amendment does not treat these functions separately from functions transferred under section 301(a)(4).

The House recedes.

NATIONAL INSTITUTE OF EDUCATION

The Senate bill specifically transfers all functions of the National Institute of Education.

The House contains no specific provision, but authorizes the transfer in the language transferring generally functions of the HEW Secretary and the HEW Education Division.

The conference agreement deletes the Senate's specific provision.

HEAD START

The Senate bill provides that nothing in the Act shall authorize the transfer of the Head Start program from HEW to the Department.

The House amendment contains no comparable provision. The House recedes (subsection (d)).

Subsections (b) and (c)

The approach of the Senate bill is to transfer *functions* to the *Secretary*, and to transfer *offices* to *the Department*.

The House amendment transfers functions *and* offices to the Secretary.

The conference agreement adopts the Senate approach. In subsection (b), the substitute transfers to the Department all offices of the Assistant Secretary for Education, HEW Education Division, HEW relating to the functions transferred, HEW offices established under the Rehabilitation Act of 1973 (which would result in transferring the offices listed in section 301(a)(5), (6) (7), (9), and (10) of the Senate bill (exclusive of that portion of the Rehabilitation Services Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act)) the Institute of Museum Services, Advisory Council on Education Statistics, Federal Education Data Acquisition Council, and HEW education-related advisory committees. In subsection (c), the conference agreement transfers to the Secretary all functions of the Assistant Secretary for Education (HEW), Commissioner of Education, or the HEW Secretary with respect the HEW Education Division, Office of Assistant Secretary for Education (including National Center for Education Statistics), and HEW education-related advisory committees.

Section 302—Transfers From the Department of Defense

TRANSFER AUTHORITY

The Senate bill transfers to the Secretary all functions of the Secretary of Defense relating to the operation of schools for overseas dependents, and the functions of the Defense Dependents' Education Act of 1978. The Senate bill also specifies that officers, employees, assets, contracts, etc., connected with DOD schools are transferred (similar language is found in section 501 of both the Senate bill and the House amendment covering all transfers generally).

The House amendment transfers functions and offices vested in the Secretary of Defense by the Defense Dependents' Education Act of 1978.

The conference agreement (subsection (a)) states that all functions of the Secretary or Department of Defense relating to the schools' operation are transferred to the Secretary, including all functions under the Defense Dependents' Education Act of 1978. The agreement does not contain the Senate's language (subsection (a)(1)) with respect to assets, liabilities, contracts, etc., in this section, but contains a general transfer provision in section 501. The conference agreement's inclusion of the Senate language transferring *all* functions of the Secretary of Defense relating to the school's operation is intended to cover the transfer of public schools under the Panama Canal Treaty, oversight of public schools on military bases in the continental U.S. (the so-called "Section 6" or "CONUS" schools), and all incidental operations for the overseas schools throughout DOD.

TEACHERS' COMPENSATION

The Senate bill makes the authority of the Secretary of Defense under the Defense Department Overseas Teachers Pay and Personnel Practices Act available to the Secretary of Education.

The House amendment has no comparably specific provision.

The House recedes (subsection (b)). The managers fully intend that overseas teachers continue to be compensated according to the provisions of the Act, and that the transfer affect in no way any existing contracts or agreements.

THREE-YEAR "PHASEIN" PLAN

Both the Senate bill and the House amendment allow the Secretary flexibility to "phase-in" the dependents schools over a three-year period. Both the Senate bill and the House amendment also require a plan for making the transfer be submitted to Congress within one year.

The Senate bill, however, requires the plan contain recommendations for increasing parent-teacher-student participation, while the House amendment requires the Secretary to consult with parents, teachers, and others in developing the plan.

The Senate recedes with an amendment adding the language of the Senate bill with respect to recommendations for increasing parent-teacher-student participation.

OVERSEAS INSTITUTIONS OF HIGHER EDUCATION

The House amendment denies the Secretary authority to operate overseas institutions of higher education.

The Senate has no comparable provision.

The Senate recedes. The issue of the Panama Canal Zone College arose during the Conference. It is the intention of the conferees that nothing in this Act will be construed to grant authority for the Department of Education to operate that college. If operation of this institution or any other overseas institution of higher education is authorized in any other provision of law, such other provision of law shall be applicable.

Section 303—Transfers From the Department of Labor

The House amendment specified that the transfer of migrant education programs be made only when the Secretary of Education establishes a single office to administer all migrant education programs.

The Senate bill has no comparable provision.

The Senate recedes.

Section 304—Transfers of Programs from the National Science Foundation

The Senate bill states the programs which are *not* transferred to the Secretary. The House amendment states the programs which *are* transferred to the Secretary.

The Senate bill also requires the Director of the Office of Management and Budget to consult with the Director of the Office of Science Technology and Policy and the Director of the National Science Foundation prior to determining which programs are transferred to the Department. The Senate bill further requires the Secretary to establish advisory mechanisms for the programs transferred to assure continued participation of the science community.

The Senate bill would transfer approximately $24.4 million of NSF science education programs. The House amendment would transfer approximately $27.8 million in programs. Between the two versions, two programs overlap (both the Senate and the House concurring in their transfer): Elementary and Pre-school Science Teacher Training (approx. $3 million budget) and Minority Institutions Science Improvement (approx. $5 million budget).

The conference agreement adopts substantially the language of the Senate bill—with amendments—and authorizes the transfer of the two overlapping programs described above. The substitute deletes the requirement of consultation with the Director of the Office of Management and Budget, and prohibits the transfer of science education programs relating to the conduct of *basic and applied* research and development. The agreement also retains the Senate provision relating to advisory mechanisms.

Section 305—Transfers From the Department of Justice

Both versions are substantially identical.

The Senate recedes.

Section 306—Transfers From the Department of Housing and Urban Development

Both versions are substantially identical.

The Senate recedes.

Section 307—Effect of Transfers

Both versions are substantially identical.

The Senate recedes.

TITLE IV—ADMINISTRATIVE PROVISIONS

Section 401—Officers and employees

Section 401(b)(1)

The Senate bill waives the restriction in 5 U.S.C. 5108(a) that a personnel position may be placed in GS-16, 17, or 18 only by action of the Director of the Office of Personnel Management and permits the Secretary to take this action with respect to the number of positions in such grades on February 1, 1979.

The House amendment requires the Director of the Office of Personnel Management to provide for the establishment of the number of positions in such grades on the day before the effective date of the Act in accordance with 5 U.S.C. 5108(a).

The Senate recedes.

Section 401(b)(2)

The Senate bill authorizes the Secretary to establish scientific, technical, and professional positions outside the General Schedule in a number equal to the number performing functions transferred by the Act and waives the requirements of 5 U.S.C. 3104 that such actions be taken by the Director of the Office of Personnel Management.

The House amendment authorizes the same number of positions but requires the Director of the Office of Personnel Management to establish the positions on the request of the Secretary in accordance with 5 U.S.C. 3104.

The Senate recedes.

Section 401(c)

The Senate bill allows the appointment of scientific, technical, or professional employees under grade GS-18, excepted from Civil Service classification and GS pay rate provisions, in a number not to exceed one-third of the total number of employees of the Office of Educational Research and Improvement.

The House amendment provides similar authority for appointment of excepted scientific, technical, and professional employees, but limits the number to 112 positions.

The conference agreement adopts the House language but raises the ceiling on excepted positions to 175. This number reflects the current number of excepted positions designated in positions and functions to be transferred to the Office of Educational Research and Improvement.

Section 401(d)

The Senate bill authorized 15 limited term appointments to the Senior Executive Service, subject to 5 U.S.C. 3134 which limits the proportion of such appointments which may be of a non-career or limited emergency type.

The House amendment requires that these limited term appointments be counted for purposes of 5 U.S.C. 3134(e) and 5 U.S.C. 5108 which relate to government-wide limits on these types of appointments and on supergrade positions in general, respectively.

The Senate recedes.

Section 401(e)

The Senate bill provides for the continued coverage of applicable Indian preference laws.

The House amendment contains no comparable provision.

The House recedes.

Section 402—Experts and consultants

The Senate bill authorizes the Secretary, as provided in appropriation Acts, to obtain services of experts and consultants.

The House amendment provides similar authority but does not contain the condition "as provided in appropriation Acts."

The House recedes.

Section 403—Personnel reduction and annual limitations

Section 403

The Senate bill provides for a procedure whereby Congress sets an end strength for personnel in the Department at the end of each fiscal year. The Department's personnel appropriations would be barred for a fiscal year if an end strength for that year was not authorized by law. The Secretary would be responsible for apportioning the overall end strength among the different offices within the Department, and for reporting staff allocations to Congress within 120 days. The end strength would include all directly- and indirectly-hired, full- and part-time staff. Students and disadvantaged youth and temporary summer employment would be excluded. A first year end strength of 17,239 is authorized.

The House amendment mandates a reduction of 800 full-time permanent positions by the end of the fiscal year beginning after the bill's effective date, and prohibits an increase thereafter. Consultants and experts would count as full-time permanent staff.

The conference agreement adopts the approach of the Senate bill, but requires apporpriation Acts to place annual limits on the total number of work-years for the Department. The Secretary shall prescribe the allocation of these work-years among the Department's organizational units and components and, within 120 days after enactment of an appropriation Act containing a work-year limitation, shall report to Congress on such allocation. The Secretary is required to report to Congress at the end of the fiscal year on the compliance with such limitation, including the actual allocation of work-years for the previous fiscal year. The conference agreement also provides for the President to include in any reorganization plan transferring functions to the Department, details of adjustments which may be necessary in established work-year limitations.

The conference agreement requires that the number of full-time equivalent personnel positions available for performing functions transferred to the Department be reduced by 500 by the end of the first fiscal year beginning after the effective date of the Act.

The conference agreement provides that computations to be made by Section 403 shall be made on the basis of all personnel including experts and consultants employed under Section 3109 of Title V and all other part-time and full-time personnel, excepting personnel employed under special programs for students and disadvantaged youth (including temporary summer employment). The Director of the Office of Personnel Management also is directed to establish a method for computing work-years for personnel of the Department.

Section 403(d)

The House amendment requires the Director of the Office of Personnel Management to submit a report within one year after the effective date of this Act, assessing the personnel impact of the reorganization.

The Senate bill has no comparable provision.

The Senate recedes.

Section 411—General authority

The Senate bill grants the Secretary the authorities that transferred agencies or offices held before their transfer and further states that the Secretary's actions in using these authorities would have the same force and effect as when exercised by the previous agency or office.

The House amendment contains a provision granting the Secretary similar authorities, but without the "force and effect" language.

The Senate recedes with an amendment that the Secretary's actions will have the force and effect of the previous agency or office.

Section 412—Delegation

The Senate bill authorizes delegation and redelegation of authority and states that delegation does not relieve the Secretary of administrative responsibility.

The House amendment also authorizes delegation and redelegation, but does not contain the statement regarding administrative responsibility.

The House recedes.

Section 413—Reorganization

The Senate bill allows the Secretary to reorganize offices within the Department and prohibits the Secretary from reorganizing offices established by this Act. The Senate bill also contains a specific prodecure for reorganizing offices created by statute. It lists offices or units created by statute and prohibits the Secretary from reorganizing those offices unless he or she follows a procedure of providing a 90 days' notice to the Senate Labor and Human Resources Committee and the House Education and Labor Committee, explaining in detail the reorganization plans for the office.

The House amendment grants general authority to the Secretary to reorganize offices and components within the Department but contains a broader authority for the Secretary to reorganize and discontinue other offices and units as he or she "may deem to be necessary or appropriate." The House amendment states that this authority does not extend to the abolition of organizational units or components established by the Act or to the transfer of functions vested by the Act in any organizational unit or component.

The conference agreement grants general authority to the Secretary to effect internal reorganizations of the Department. It specifies that this authority does not extend to the abolition of entities established by this Act or the alteration of the delegation of functions under the Act to any specific organizational entities. In addition, the conference agreement adopts the approach of the special procedure contained in the Senate bill for reorganization of specified statutory entities. It lists such entities and allows the Secretary to alter, consolidate, or discontinue such entities or reallocate functions vested by statute in such entities, not less than 90 days after notification of the appropriate House and Senate committees. In adopting this provision for internal reorganization or organizational entities within the Department, the Committee does not intend to suggest that it is establishing any limitations on the President's reorganization authority under Chapter 9 of Title 5, United States Code.

Section 414—Rules

The Senate bill and the House Amendment authorize the Secretary [illegible] prescribe rules and regulations in accordance with the provisions of Chapter 5 of Title 5 of the U. S. Code.

The Senate bill also requires the Secretary to make reasonable efforts to alert appropriate officials of local education authorities as to the purpose and content of proposed rules or regulations.

The House amendment does not contain the local education authority notification requirement. The House amendment specifies that Section 431 of the General Education Provisions Act, providing for legislative veto of education regulations, shall apply to the extent applicable immediately prior to the effective date of this Act and to rules and regulations promulgated with respect to programs transferred under Section 301(a)(1), (2), and (4), 302, 303, 304, 305, and 306.

The conference agreement provides general authority for issuance of rules and regulations in accordance with Chapter 5 of Title 5 of the United States Code. In addition, the Senate recedes to the House language regarding preservation of GEPA's existing legislative veto coverage and extension of that provision to specified programs to be transferred to the Department. The conference agreement does not change existing law with regard to the GEPA legislative veto provision's applicability to civil rights activities. Any civil rights activities to which GEPA's legislative veto provisions now applies would remain subject to such legislative veto provision. GEPA's legislation veto provision would remain inapplicable to any civil rights activities not now subject to such provision.

Section 415—Contracts

The Senate bill authorizes the Secretary to enter into contracts and similar agreements and specifies that no authority to enter into contracts or to make payments shall be effective except as provided in advance under appropriation Acts. The Senate bill exempts gifts and bequests from the latter requirement.

The House amendment grants the Secretary similar contracting authority and has a similar requirement that such authority be granted in appropriation Acts, but does not exempt gifts and bequests. The House amendment makes the contracting authorities subject to the Federal Property and Administrative Services Act of 1949.

The conference agreement grants general contracting authority and adopts the House language in regard to the Federal Property and Administrative Services Act of 1949. The conference agreement also contains the specification that amounts be provided for in advance under appropriation Acts and adopts the Senate language exempting gifts and bequests from this requirement.

Section 417—Acquisition and maintenance of property

The Senate bill authorizes the Secretary to acquire and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for Department employees and their dependents, and personal property (including patents). The Senate bill also authorizes the Secretary to provide for eating and health and welfare facilities for Department employees. The authority of Section 524 of the Education Amendments of 1976 also is provided to the Secretary. The Senate bill specifies that the authority for acquisition and maintenance of facilities shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

The House amendment contains similar provisions regarding acquisition and maintenance of facilities, but specifies that schools and related facilities may be acquired and maintained only to the extent that operation of schools and related facilities by the Department is authorized by this Act.

The conference agreement adopts the Senate language but adds the House amendment's condition that schools and related facilities may be obtained only to the extent that operation of schools and related facilities by the Department is authorized by the Act.

Section 418—Facilties at remote locations

The Senate bill authorizes the provision for employees and their dependents at remote locations of emergency medical services and supplies; food and other subsistence supplies; dining facilities; audio-visual equipment, accessories, and supplies for recreation and training, reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies; living and working quarters and facilities; and transportation for dependents to educational facilities.

The House amendment contains similar provisions for facilities at remote locations, but adds the requirement that emergency medical services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother is endangered if the fetus were carried to term.

The conference agreement generally adopts the language of the House amendment, but does not adopt the provision relating to services and supplies for the performance of abortions. In deleting the House language in regard to abortions, the conferees wish to emphasize the policy of the Federal Government in regard to abortions has been specified in appropriations and other statutes. It is the conference committee's intention that the Department of Education will, in this matter, follow the general policy of the United States as specified in other, relevant legislation.

Section 419—Use of facilities

The Senate bill allows Department use of research, equipment, services, and facilities of other governmental entities, and permits the use of property and facilities within the Secretary's custody and control by public and private entities. The Senate provision also specifies in this section that personnel of overseas schools shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense. Another provision of the Senate bill specifies that proceeds from reimbursements shall be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

The House amendment also allows Department use of other entities' facilities and permits use of Department facilities, but adds a restriction prohibiting the Secretary from permitting use of such facilities by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother were endangered if the fetus were carried to term. The House amendment contains a provision regarding reimbursements which is similar in purpose to the Senate provision regarding reimbursements, but permits proceeds to be credited to working capital funds. It also provides that any interest in real property acquired pursuant to the Act shall be acquired in the name of the United States Government.

The conference agreement adopts the House language regarding use of facilities by other institutions but deletes the restriction regarding abortions. In deleting the House language in regard to abortions, the conferees wish to emphasize the policy of the Federal Government in regard to abortions has been specified in appropriations and other statutes. It is the conference committee's intention that the Department of Education will, in this matter, follow the general policy of the United States as specified in other, relevant legislation. The conference agreement adopts the Senate language regarding proceeds from reimbursements and the House provision regarding acquisition of real property in the name of the United States Government.

Section 422—Technical advice

The Senate bill authorizes the Secretary to provide advice, counsel, and assistance to applicants and other interested persons. The Senate bill also authorizes the Secretary, upon request, to provide technical assistance to States desiring to develop comprehensive plans applicable to two or more Department programs.

The House amendment contains similar technical advice authority and in addition allows the Secretary to permit the consolidation of applications for grants or contracts as long as the consolidation does not change statutory criteria for approval of applications for funding.

The Senate recedes.

Section 424—Funds transfer

The Senate bill permits the Secretary, when authorized in an appropriation Act in any fiscal year, to transfer funds from one appropriation to another within the Department. The Senate bill places two restrictions on this power: No appropriation may be increased or decreased by more than five percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated.

The House amendment grants the Secretary similar authority, but specifies that no appropriation for any fiscal year may be increased or decreased by more than ten percent. The House amendment does not contain the language regarding increase of appropriations above the amount authorized.

The House recedes.

Section 426—Annual report

The Senate bill requires an annual report to Congress after the end of each fiscal year. The Senate bill requires that the report include a statement of goals, priorities, and plans for the Department consistent with the findings and purposes of the Act; an assessment of the progress made during the fiscal year and anticipated future progress toward attainment of goals, priorities, and plans; effective and efficient management; coordination of Department functions; and reduction of burdensome regulation and of unnecessary duplication and framentation in Federal education programs. The Senate bill also requires that the report include data covering changing trends in education and areas of critical concern, budget projections for the next five fiscal years, and recommendations of the Federal Interagency Committee on Education. Another provision of the Senate bill requires that the Secretary consult with the public in preparation of the report and hold public hearings in order to maximize public participation. The Secretary is authorized to reimburse persons for expenses incurred in such consultation or hearings if the person has made or is likely to make a material contribution to the work of the Department and could not otherwise participate fully and effectively.

The House amendment also requires an annual report including a statement of goals, priorities, and plans for the Department, an assessment of progress toward those objectives, the more effective and efficient operation of the Department and coordination of functions. The House amendment also specifies that the report shall include an estimate of non-Federal personnel (including consultants) employed. The House amendment has no provision for public participation in writing the Department's annual report.

The conference agreement adopts the House language but includes from the Senate bill the provision that the report shall include an assessment of progress toward the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs (accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives).

In deleting the Senate's provision for public participation in preparation of the Department's annual report, the conferees do not wish to suggest that public input into Department policy is

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unimportant. The conferees urges the Secretary to take all practicable steps to encourage appropriate public participation in the Department's operations and to gain the public's views of the Department's projected plans.

Section 427—Relationship to General Education Provisions Act

The Senate bill includes a section dealing with paperwork control in which it amended the General Education Provisions Act to provide that Federal agencies would submit their requests for data collection regarding education programs simultaneously to the OMB Director and to the Secretary for review and coordination. The Amendment reads as follows:

> Each request for collection of information or data acquisition activities shall be submitted to the Director of the Office of Management and Budget by each relevant Federal agency at the same time that it is submitted to the Secretary for review and coordination under this section. Whenever the Director of the Office of Management and Budget exercises his authority under section 3509 of title 44, United States Code, he shall make a decision thereon within the review period provided in subsection (b) and shall furnish such decision to the Secretary and to the Federal Education Data Acquisition Council. The decision of the Director shall control, unless the Secretary, in carrying out the provisions of this section, determines that additional elements in the proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly in which case the decision of the Secretary shall control. If the Director does not exercise his authority under such section 3509, within the review period provided in subsection (b), the decision of the Secretary under this section shall control.

The House amendment does not contain such a provision.

The Senate recedes. In deleting the Senate provision, the conferees wish to stress that they are vitally concerned with the paperwork burden created for educators at all levels by Federal surveys, applications, reports and data requests. The conferees strongly feel that the Secretary of Education and the Director of OMB should attempt to develop the procedure outlined in the Senate bill consistent with their current statutory responsibilities. We also call attention to the fact that bills which would have this effect are pending before the Committee on Governmental Affairs in the Senate and the Committee on Government Operations in the House. These Committees are urged to consider promptly this legislation.

Section 428—Authorization of appropriations

The Senate bill contains a general authorization of appropriations to enable the Secretary to administer and manage the Department, beginning in Fiscal Year 1980.

The House amendment contains a similar general authorization of appropriations, but does not specify when such appropriations shall begin.

The House recedes.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501—Transfer and allocation of appropriations and personnel

Section 501(b)

The Senate bill makes transferred positions at Executive Schedule levels I through V subject to the provisions of Section 503, relating to the termination of positions in terminated offices.

The House amendment makes only transferred positions at levels IV and V subject to such provisions.

The Senate recedes.

Section 502—Effect on personnel

The Senate bill protects transferred personnel from separation or reduction in grade and compensation for one year after transfer or one year after the effective date of this Act, whichever is later.

The House amendment protects such personnel for one year after transfer.

The Senate recedes.

Section 503—Agency terminations

Section 503(a)

The Senate bill states that, except as otherwise provided by this Act, an agency, commission, or other body is terminated when all functions are transferred from the agency, commission, or other body to the Department. Section 413(c) of the Senate bill also provides for the termination of the following organizational entities on the effective date of the Act: The Education Division of the Department of Health, Education, and Welfare, including the Office of Education; the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare; the Bureau for the Education and Training of the Handicapped of the Department of Health, Education, and Welfare; and the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare. In addition, the Senate bill specifies that the Office of Dependents' Education of the Department of Defense shall lapse when the President exercises transfer authority.

Section 503 of the House amendment provides for the termination of the following entities upon the transfer of functions pursuant to the Act: The Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education); the Office of Assistant Secretary for Education of the Department of Health, Education, and Welfare; the Office of Education and the Office of Commissioner of Education of the Department of Health, Education, and Welfare; and the Office of Dependents' Education of the Department of Defense.

The conference agreement provides that the following entities shall terminate upon the effective date of this Act: The Education Division of the Department of Health, Education, and Welfare, including the Office of Education; the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare; and the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare. The conference agreement also provides that the Office of Dependents' Education of the Department of Defense shall terminate whenever the President exercises his authority under Section 302(c).

Section 503(b)

The Senate bill terminates positions at Executive Schedule levels II through V which were located in offices terminated pursuant to this Act.

The House amendment terminates such positions only to levels IV and V.

The Senate recedes.

Section 505—Savings provisions

Section 505(f)

The Senate bill provides that orders and actions made by the Secretary in carrying out transferred functions shall be subject to judicial review in the same manner as if such orders or actions had been made by the agency or office exercising such functions prior to transfer.

The House amendment contains no comparable provision.

The House recedes.

Section 507—Reference

The Senate bill states that reference regarding technical functions to any department, commission, or agency shall be deemed to refer to the Secretary or Department.

The House amendment states such reference would be deemed to refer to the Secretary, other official or component of the Department in which the Act vests such functions.

The conference agreement states that such reference shall be deemed to refer to the Secretary, other official, or component of the Department to which the Act transfers such functions.

Section 508—Amendments

Section 508(a)

The House amendment redesignates the "Secretary of Health, Education, and Welfare" in section 19 of Title 3, United States Code, as the "Secretary of Health and Human Services."

The Senate bill achieves the same result through the redesignation provisions of Section 512.

The Senate recedes.

Section 508(e)(1)

The House amendment amends Section 5315 of Title 5 of the United States Code to substitute four Assistant Secretaries of Health and Human Services for five Assistant Secretaries of Health, Education, and Welfare at level IV of the Executive Schedule.

The Senate bill has no comparable provision.

The Senate recedes.

Section 508(e)(2)

The Senate bill amends Section 5315 of Title 5, United States Code, by adding to the list of positions at Executive Schedule IV the Director of the Office of Civil Rights of the Department of Education.

The House amendment includes the head of the Civil Rights Office as one of its six Assistant Secretaries of Education added to such section.

The Senate recedes.

Section 508(f)

The House amendment adds five undesignated officers to the Department of Education by amending Section 5316 of Title 5, United States Code.

The Senate bill adds two additional officers at level V, the Administrator of Education for Overseas Dependents and one additional undesignated officer.

The conference agreement adds the Administrator of Education for Overseas Dependents and four undesignated officers to Section 5316.

Section 508(g)

The House amendment amends subchapter II of Chapter 53 of Title 5, United States Code, by substituting "Health and Human Services" for "Health, Education, and Welfare" throughout.

The Senate bill achieves the same result through the redesignation provisions of Section 512.

The Senate recedes.

Section 508(h)(1)

The Senate bill provides for consultation between the Secretary of Labor and the Secretaries of Health and Human Services and Education on services of a health and human services or education character, respectively.

The House amendment is similar, except that there is no House provision comparable to the last sentence of the Senate provision, which requires approval by the Secretary of Education of arrangements by the Department of Labor for education and training.

The Senate recedes.

Section 508(h)(2), (4), and (5)

The House amendment amends the Comprehensive Employment and Training Act to substitute both the Secretaries of Education and Health and Human Services for the Secretary of Health, Education, and Welfare.

The Senate bill has no comparable provision.

The Senate recedes.

Section 508(h)(6)

The House amendment requires the Secretary of Labor to consult with the Secretary of Education in making discretionary grants under the Youth Employment Training Programs of CETA.

There is no comparable Senate provision.

The Senate recedes.

Section 508(h)(7)

The House amendment adds the Secretary of Education to the National Commission for Employment Policy.

The Senate has no comparable provision.

The Senate recedes.

Section 508(i)

The Senate bill amends the Alcohol and Drug Abuse Education Act to make personnel of the Departments of Health and Human Services and Education available to render technical assistance.

The House amendment substitutes "Health and Human Services" for "Health, Education, and Welfare" and does not make Education personnel available to render technical assistance.

The House recedes.

Section 508(j)(1)

The Senate bill amends Section 1410(a)(1) of the Defense Dependents' Education Act of 1978 to make the composition of local school advisory committees "an equal number of representatives of professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school" in place of "an equal number of representatives of sponsors of students enrolled in the school."

The House amendment contains no comparable provision.

The House recedes with an amendment replacing "representatives of sponsors" with "parents."

Section 508(j)(2)

The Senate bill amends Section 1410(b) of the Defense Dependents' Education Act to make the Secretary of Education, after consultation with the Secretary of Defense, responsible for rules governing elections to the local school advisory committees.

The House amendment has no comparable provision.

The House recedes.

Section 508(j)(4)

The Senate bill makes the Administrator of Education for Overseas Dependents the chairman of the Advisory Council on Dependents' Education.

The House amendment adds the Department of Education Dependents' Education Officer as co-chairman of such Council.

The conference agreement adopts the House provision but conforms the title of the officer to "Administrator of Education for Overseas Dependents."

Section 508(j)(5)

The Senate bill changes the composition of the Advisory Council to include "representatives of organizations of parents of dependents" in place of "sponsors of students." The Senate bill also eliminates Advisory Council representatives of the Commissioner of Education, the National Institute of Education, the National Science Foundation, and the National Endowment for the Arts, and adds representatives of the Secretary of Education and the Secretary of Defense.

The House amendment contains no provision regarding representatives of dependents' parents on the Council. The House amendment eliminates representatives of the Commissioner of Education and the National Institute of Education, and adds a representative of the Secretary of Education.

The conference agreement provides for representation by "parents of dependents" on the Council. It also eliminates Advisory Council representatives of the Commissioner of Education, the National Institute of Education, the National Science Foundation, the National Endowment for the Arts, and of the Secretaries of the military departments and adds representatives of the Secretary of Education and the Secretary of Defense.

Section 508(j)(6)

The Senate bill changes the terms of office and the staggered term provisions of Council membership.

The House amendment has no comparable provision.

The conference agreement deletes the Senate amendment but makes the Secretary of Education responsible for determining the Council's staggered term provisions.

Section 508(j)(7)

The Senate bill provides for the Council to make recommendations concerning the gradual transfer of the dependents' school system and lists three specific areas for recommendations by the Council.

The House amendment contains a similar provision regarding recommendations on transfer, but does not specify areas for recommendations.

The Senate recedes.

Section 508(k)

The Senate bill amends the Elementary and Secondary Education Act of 1965 to require the Secretary of Health and Human Services to transmit data relating to allocation of funds under title I of ESEA to the Secretary of Education by February 1 of each year.

The House amendment makes the reporting date January 1 of each year.

The Senate recedes.

Section 508(l)

The House amendment amends the Environmental Education Act of 1978, the Vocational Education Act of 1963, and the Higher Education Act of 1965 to abolish four supergrade positions that were established outside the supergrade pool by those Acts, while retaining grandfather rights for incumbents of those positions.

The Senate bill has no comparable position.

The Senate recedes.

Section 510—Coordination of programs affecting handicapped individuals

The Senate bill directs the establishment of a unit within the Department of Health and Human Services to coordinate programs for the handicapped within that Department.

The House has no comparable provision.

The House recedes with an amendment which deletes the requirement that a unit be established to effect such coordination.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601—Effective date

The Senate bill and the House amendment are substantially similar, except that the House amendment makes October 1, 1979, the earliest possible effective date in order to comply with the Congressional Budget Act.

The Senate recedes.

Section 602—Interim appointments

The Senate bill and the House amendment are substantially similar, except that the Senate bill limits interim appointments to 120 days or the date on which the office is filled by a permanent appointee, whichever is earlier.

The House amendment permits interim appointments until the date on which the office is filled by a permanent appointee.

The House recedes.

ABE RIBICOFF,
JOHN GLENN,
CARL LEVIN,
CHARLES H. PERCY,
JACOB JAVITS,
Managers on the Part of the Senate.
JACK BROOKS,
DON FUQUA,
DANTE B. FASCELL,
FERNAND J. ST GERMAIN,
ELLIOTT H. LEVITAS,
FRANK HORTON,
Managers on the Part of the House.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, MONDAY, SEPTEMBER 24, 1979 No. 124

Senate

(Legislative day of Thursday, June 21, 1979)

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DEPARTMENT OF EDUCATION ORGANIZATION ACT—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on S. 210 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the dis-

ment ever received so much intense scrutiny and study. Both Houses of Congress have spent more than 50 hours thoroughly debating the proposal on the floor.

This year, for the first time in history, the House and the Senate have both passed a bill to establish the Department of Education.

All in all, there are more than 140 organizations which have endorsed the

American Federation of State, County, and Municipal Employees (AFL–CIO).

American GI Forum Education Foundation.

American Library Association.

American Personnel and Guidance Association.

American School Food Service Association.

American Society for Public Administration.

American Theatre Association.

American Vocational Association.

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agreeing votes of the two Houses on the amendments of the House to the bill (S. 210) to establish a Department of Education, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of September 21, 1979.)

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff be accorded the privilege of the floor during the consideration of the conference report, S. 210, the Department of Education Organization Act:

Richard Wegman, Marilyn Harris, Robert Heffernan, Anthi Jones, Robert Fogel, Lawrence Grisham, Alan Bennett, Franklin Zweig, Robert Schmitt, and Marianne Kern.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, after nearly 3 years of hard work, both the House and the Senate are now ready to complete final action on the bill to separate the "E" from HEW.

We have amply demonstrated and debated the need for the Department of Education.

In no previous time has any bill to establish an agency or executive depart-

Department. These groups represent the handicapped, teachers, school board members, women and minorities, laborers, parents, and students. Mr. President, I ask unanimous consent that the entire list of organizations supporting the Department be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

ORGANIZATIONS SUPPORTING DEPARTMENT OF EDUCATION

Adult Education Association of U.S.A.

Alliance of Association for the Advancement of Education.

American Alliance for Health, Physical Education, Recreation, and Dance.

American Association of Colleges of Teacher Education.

American Association of Community and Junior Colleges.

American Association of School Administrators.

American Association of University Professors.

American Association of Workers for the Blind.

American Choral Directors Association.

American Coalition of Citizens with Disabilities.

American Dance Guild.

American Dietetic Association.

American Educational Research Association.

American Federation of Government Employees (AFL-CIO).

American Federation of Government Employees, Local 2607 (Representing Education Division, HEW).

Americans for Democratic Action.

Americans for Democratic Action—Youth Caucus.

Americans for Indian Opportunity.

Asian and Pacific Educational Alliance.

ASPIRA of America.

Association for Childhood Education International.

Association of Community College Trustees.

Association for Educational Communications and Technology.

Association of Schools and Colleges of Education in State Universities and Land Grant Colleges and Affiliated Private Universities.

Association of School Business Officials.

Association for Supervision and Curriculum Development.

Coalition of American Public Employees.

Coalition of Independent College and University Students.

College Art Association of America.

College Band Directors National Association.

College Music Society.
Committee on Research in Dance.
Congress of D.C. PTA.
Council for the Advancement and Support of Education.
Council for Educational Development and Research.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of Great City Schools.
Council of State Administrators of Vocational Rehabilitation (Executive Committee)
Dean's Network.
Education Commission of the States.
El Congreso Nacional de Asuntos Colegiales.
European Congress of American Parents, Teachers and Students.
Home Economics Education Association.
International Council of Fine Arts Deans.
International Reading Association.
League of United Latin American Citizens.
Mexican-American Legal Defense and Educational Fund.
Mid-America Association.
Music Educators National Conference.
Music Teachers National Association.
National Art Education Association.
National Academy of Education.
National Alliance of Black School Educators.
National Alliance of Spanish Speaking People for Equality, Inc.
National Association for Bilingual Education.
National Association for Equal Educational Opportunity.
National Association for Equal Opportunity in Higher Education.
National Association for Retarded Citizens.
National Association for the Deaf.
National Association of Administrators of State and Federal Education Programs.
National Association of College Wind and
National Guild of Community Schools of the Arts.
National IMAGE, Inc.
Nationoal Puerto Rican Forum.
National Rehabilitation Association.
National School Boards Association.
National School Public Relations Association.
National School Supply and Equipment Association.
National School Volunteer Program.
National Student Education Fund.
National University Extension Association.
National Urban Coalition.
National Urban League.
National Women's Political Caucus.
Overseas Education Association.
Pacific Asian Coalition.
People United To Save Humanity (Operation PUSH).
Puerto Rican Legal Defense and Education Fund, Inc.
Research for Better Schools.
Speech Communication Association.
State Higher Education Executive Officers Association.
Student National Education Association.
United Auto Workers.
United Farm Workers.
United Negro College Fund.
United States Student Association.
Young Audiences, Inc.

Mr. RIBICOFF. Mr. President, we have closely examined all the issues and impacts. The House, the Senate, and the President all agree that HEW is simply too unmanageable and education too important to continue the present setup. We have found that the large, important Federal effort in education is inefficient, uncoordinated, and unaccountable. Without the remedies offered by the Department, bureaus which make up the Federal education establishment today.

The new Department's staff allocation—made up of existing authorities—will be larger than five existing Cabinet departments. But, it will have fewer full time staff, fewer assistant secretaries, fewer supergrades, and fewer executive level positions than any other department. That shows just how much we have streamlined the Department of Education.

The compromise version contains two important provisions to hold down the staffing levels of the Department. The first, developed with the valuable assistance of Senators ROTH, BELLMON, and HATCH, mandates that the appropriations committees annually set strict ceilings on the number of staff employed, including experts and consultants.

Also, this bill does something we have never done before. We are so certain of the considerable improvements in management and efficiency under this reorganization that this bill actually requires the reduction of 500 positions by the end of the first fiscal year of the Department's life. We will be saving approximately $15 million a year right there.

OMB estimates the total savings of pulling the "E" out of HEW and consolidating education programs will reach $100 million annually.

Finally, the conferees have rightly decided there is a distinct line which must be drawn between reorganization and structural issues, on one hand, and sub-

Percussion Instructors.

National Association of Elementary School Principals.

National Association of ESEA Title I Coordinators.

National Association of Mexican-American Women.

National Association of School Psychologists.

National Association of Schools of Art.

National Association of Schools of Music.

National Association of Secondary School Principals.

National Association of State Boards of Education.

National Association of State Directors of Migrant Education.

National Association of State Directors of Special Education.

National Association of State Directors of Vocational Education.

National Association of Supervisors and Directors of Secondary Education.

National Audio-Visual Association.

National Caucus of Black School Board Members.

National Coalition of Hispanic Mental Health and Human Services Organization.

National Conference of State Legislatures.

National Community Education Association.

National Committee for Citizens in Education.

National Congress of Parents and Teachers.

National Council for the Social Studies.

National Council of La Raza.

National Council of Negro Women.

National Council of State Agencies for the Blind.

National Council of Teachers of English.

National Council of Teachers of Mathematics.

National Dance Association.

National Education Association.

National Federation of the Blind.

partment of Education, the threat of more Federal intrusion in the local control of education can only increase.

I am pleased to report to my colleagues that the final version agreed upon by House and Senate conferees is an even better bill.

We have combined the strong and clear provisions of both House and Senate bills which protect local control of education. The compromise version explicitly states that the establishment of the Department of Education shall not increase the authority of the Federal Government over States, localities, and private institutions in education.

In addition, the bill now also contains the House provision which actually prohibits the Federal Government from exercising direct control over education.

Both provisions were developed in full consultation with such State and local groups as the National School Boards Association and the National Conference of State Legislatures, among many others.

The bill has the overwhelming support of most State-local organizations, including the National Governors Association, Council of Chief State School Officers, the State Boards of Education, and Education Commission of the States. They know we have gone to great lengths to fully protect local control of education.

The compromise bill we bring to the floor today also provides for a lean, tight, simple, and efficient structure for the new Department.

The number of principal officers and offices will be just 13—down from more than 30 separate offices, agencies, and stantive policy issues on the other.

The compromise version before us today simply separates education from health and welfare and puts it in a new Department of Education. There are no new programs, no increase in the Federal Government's powers, and no changes of any kind in substantive education law and policies. In a reorganization, that is the way it should be.

In so doing, we are preserving the rights, prerogatives, and jurisdictions of the other committees of Congress.

I hope my colleagues will agree the time to establish the Department of Education is now. We have a good conference report and a good bill. Our intentions have been made explicitly clear.

Ever since 1962, when I served as Secretary of HEW, I knew education did not belong there, and that it actually suffered by being crowded together with vitally important health and welfare functions.

I am most grateful for the tremendous and broad support given for the Department of Education by the Senate. Last April, we voted 72 to 21 to set up the Department of Education.

I hope today we can approve this report and get about the serious business of helping our States and localities improve the education of our children.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. HAYAKAWA. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a

sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HAYAKAWA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, in April many of my colleagues expressed doubt and indecision about S. 210, legislation to create a separate, Cabinet-level Department of Education. However, they did not heed the call of their own doubts. Now we are considering the conference report for this legislation. I remain opposed to this new department despite its revised form.

As many of you know, I have been involved in education all of my adult life—as both teacher and administrator. It grieves me to have to disagree with the distinguished Senator from Connecticut in this respect. But in all my capacities as an educator I can speak with some authority on the state of American education today. Yet it appears that few of my colleagues want to listen to someone who has been there, and who knows what the problems are. Senator MOYNIHAN and I have joined in opposing this bill. We have both been teachers for a long time. But it appears that our colleagues would Calif., than the kids who go to school there, their parents, and their school teachers and officials? I certainly do not presume to know what the average student in Bellville, Ill., needs from his school. We in Congress are not, nor can we be, all knowing. We must act on our own beliefs and the advice of others. But first we must think of ourselves as parents in this case, not as Federal legislators whose job it is to put new laws on the books.

I do want to commend my colleagues for at least giving some thought to the problems in education today. I just wish we had given it more time, more careful thought, before we came up with this idea for a new bureaucracy. I am afraid we may have taken the easiest course, rather than the course that promised the most improvement.

Our problems will not, cannot, be solved here in Washington. Ours are problems of the classroom—the students, the teachers, the curriculum. These cannot be corrected by way of Washington.

The structuring or restructuring of a department does not make it much better or much worse. Those involved in the workings of the department and the classroom are what should be considered. If those people with responsibilities for making the department run smoothly understand its workings, and its priorities, and its responsibilities, structure should not play a primary role. Indeed, those who want a new department would not ask for one if there were not already problems within HEW. Only when people amination of the entrance records of people in graduate schools indicates clearly that those of the highest undergraduate records are the ones who get into medical school, law school, and engineering school, and of all the graduate schools the people with the lowest records are those who go into colleges of education for Ph. D.'s in education. In other words, granted the many, many brilliant exceptions to this, the majority of Ph. D.'s in education are not the brightest of the lot of graduate students. They become educational administrators very often not because of their intellectual brilliance, not because of their depth in knowledge of any subject, but very often through politics, through academic politics, that is, which is much dirtier than political politics, I might say.

Therefore, some of our great educators or great educational systems are in charge of people of limited intellectual credentials in sociology or philosophy or literature or mathematics or science. There are many who are extraordinary estimable people but are, nevertheless, specialists in athletic coaching and other subjects which are not directly academic.

So our school adminstrations are full of people, again with all due exceptions noted, who are only quasi-intellectuals, if they are even that much, and it is not without reason that schools of education are held in low esteem by science departments, literary departments, economics departments, by all kinds of departments in which a great deal more rigor is expected of a graduate student rather listen to the unfounded pleas of people who know only that there are problems in our schools today, but who do not know how to solve them.

Having this new department is rather like grasping at straws. We see there is a problem and attempt to solve it by creating a new department. I wish someone would tell me how this new department is going to make our children literate? Or how it will erase the violence that has erupted in our schools? Or how it will ensure that we get what we pay for with our tax dollars? Or how it will make our children better prepared for their futures? If the supporters of this bill can answer these questions without prefacing the response with "I hope—" then I would consider joining them in supporting this bill. But I daresay that there are few who could say the bill would do any of these things.

There are also people who say that we might as well try it, because things have deteriorated to the point where they are willing to try anything that might help the situation. Of course, I agree that things need improving. But this is an extremely drastic step to take without knowing positively what to expect.

I think the primary problem here is one of different philosophies. The growing belief that we should look to the Federal Government to solve the problems of our schools is, I think, a major mistake. Our schools should be a primary responsibility of our parents, students, and the State and local officials. After all, who knows best what is needed by the children in Rockville, Md., or Oakland, ple are dissatisfied with a situation do they want to change it.

I still believe that we could achieve the same goals at a better, faster rate by working with what we already have in HEW.

And let me emphasize that we in Congress have added to the problems endured by our education system. We continue to throw program after program at HEW. The problem is, our main goal has been achieved by having the bill passed. We think little more about the legislation until it is time to renew it or until we hear complaints from back home. But this is the problem. Our education problems and policies should be handled at home by those who must live with them every day—not by those of us whose job it is to dream up new ideas and mark another notch in our belts every time we get something passed by our colleagues.

I will say no more. I just wanted to express my continued opposition to this new department, and go on record as predicting problems for this new department and little improvement for our schools and students.

Mr. President, I wish to give some ad lib remarks on this matter.

There has been some recent research done on the reason for failure of our schools to teach elementary literacy in many places. What I am about to say is based upon some pretty conscientious research into teachers and especially into school administrators and educational officials.

Who are the people who have their Ph. D.'s or M.A.'s in education? An ex- heading toward his Ph. D.

What we are going to create through this mechanism is a great pantheon of doctors of education, Ph. D.'s in educational administration, people who have no solid substance of mathematics or science or of philosophy or of political economy, or anything else, simply lots and lots of experience in administering tax dollars.

Another great tragedy of education is the fact that the rewards of the educational system are so structured that the ambitious teacher knows he is getting somewhere when he does not teach any more. And our schools are full of teachers who want to stop teaching and become a curriculum coordinator, an assistant principal, a principal, a superintendent, anything but classroom teaching. This dedication to nonteaching, this constant endeavor to escape from teaching, characterizes much of the profession. In creating a Department of Education we are going to fill a Department full of these people who would rather not teach, and I say that their dedication to education is not really that of the classroom teacher.

If the Department of Education were to be filled with dedicated classroom teachers, that would be one thing. But nothing of the kind is going to happen, and I am far too familiar with educational systems around the country to know that there is not much of a chance for classroom teachers ever to get high in the educational hierarchy.

As I say, Mr. President, we are creating a kind of pantheon of Ph. D.'s in education, doctors of education, with a lofty position in society, but who will do, so far as I can see, not a smidgeon of good for the average student in the grade school or in the high school.

I most respectfully differ, therefore, with the distinguished Senator from Connecticut as to the wisdom of this measure. Mr. President, I shall oppose it and shall vote against it, and I urge my colleagues to do likewise.

I thank the Chair.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, our distinguished colleague from California has just outlined many of the problems that afflict and, to some degree, infect, the educational system of this country.

Many, if not most, of the reasons for the problems he has outlined are that we have made teaching, and good teaching, so very, very difficult to perform. Up until modern times, the teacher in the community was considered one [illegible], if not the, pillars of the community, [illegible]ked to as an adviser as well as an educator, a community leader as well as a teacher of children.

But in recent decades, for a wide variety of reasons, none of which, by the way, are treated by the bill whose conference report is before us, we have made teaching of children the most difficult of professions and the least rewarding of professions.

Mr. President, we will soon be voting on this conference report on S. 210, the Department of Education Organization Act. The conference version of the bill is opposed or at least opposed to the federalization of education and to the creation of a Federal Department of Education.

The Gallup organization recently asked the question:

> In your opinion, should education be taken out of the present Department of Health, Education, and Welfare and made a separate department of the Federal Government?

The response was 40 percent answering "yes" and 45 percent answering "no." So within the limits of error of a poll of that kind clearly the country has no consensus, has no majority opinion, on this subject.

In the breakdown of this poll, opposition to the proposal prevailed in virtually all categories, demographic, and otherwise. Those parents with children in public schools were opposed 49 to 40 percent; those parents with children in private schools were opposed 47 to 42 percent; minorities opposed the creation of a Federal Department of Education by 51 to 30 percent. I repeat the minorities opposed the creation of a Federal Department by 51 to 30 percent; while others, so-called nonminorities, a term which I have yet failed to have my distinguished colleague from California define for me, opposed it 43 to 42 percent. Again, within the limits of error, no majority or no consensus.

We should, before we proceed, Mr. President, on the passage of this conference report reflect on why are the American people and, particularly, those categories I have just entered into the RECORD opposed.

The fact is, I think it is clear, that we are on our road, on the road, to a major new bureaucracy.

I hope my colleagues will recall that many of us favored the removal of educational programs from the Department of Health, Education, and Welfare and the creation of an independent agency to oversee those programs under the close scrutiny of the Congress—a nonpolitical agency. Unfortunately, this was not to be.

The House amendment which guaranteed local control of curriculum was dropped by the conference. I cannot think of a better way to guarantee control of education by parents, teachers, and locally-elected school officials than by preserving their control over the curriculum of their children.

Mr. President, if we enact this legislation we open a Pandora's box. In the coming years, zealots espousing various political, social, and economic philosophies will compete for control of the Department of Education, the curriculum of our schools, and the minds of our children.

We are all aware of the complaints of parents who are our constituents today of the kinds of subjects treated and the manner in which they are treated in the textbooks of the school systems today. I see no way in which this new proposal for a Department of Education is going to improve the objectivity of education in this country.

All of the history of the past, all the logic that we have about bureaucracy similar to the bill passed by the Senate earlier this year.

The amendments added in the other body which assisted in securing its passage by only four votes in that body were, for all intents and purposes, dropped by the conference. Of course, today is not the time to repeat all of the arguments against this proposal for a Cabinet-level Department of Education, one which includes, in addition to many other potential problems, the political control of a large overseas school system.

I have found, Mr. President, that very, very few people with whom I talked in this country about the Department of Education or who asked me questions about it realize that the majority of the employees are being transferred from the Department of Defense where they, at the present time, are overseeing a very large school system.

So it means that for the first time there will be a clear potential, if not high probability of political control of a school system not only by politicians who control, who will control, the Department of Education, but by those activists in education who, in fact, will populate the management levels of that Department.

I am one who considers himself, as I suspect the Senator from California and others in this body consider themselves, an activist in education, but an activist where education ought to be not where a few politically motivated individuals outside this body would like for it to be.

Let me remind my colleagues that the American people appear to be strongly

oan, opposed to the Department of Education. Is the Congress out of step with the desires of their constituents? I firmly believe that Congress is out of step on this proposal.

During the last year editorials and newspapers throughout the Nation have come out against this idea. Yet Congress insists on creating another bureacuracy when the wave of opinion in this country is against bureaucracy.

Congress insists on increasing the potential for Federal control of education when the wave of opinion in this country is against Federal control of our lives or at least additional Federal control of those lives.

Again, referencing the poll I just referred to, the opinion of this country appears to be against Federal control of this all-important, all-critical aspect of our lives, education.

During Senate consideration of this bill the proponents assured us that it would reduce Federal personnel involved in education, and that the Federal Government would not accelerate its ever-increasing control of education.

The fact is that the conference changed the House amendment which would have required a reduction of personnel by 800 to a reduction by only 500. What is even more disturbing, that same House amendment would have counted experts and consultants in the total reduction figure. The compromise position leaves the decision of whether to count these two groups of experts and consultants as employees to the Office of Management and Budget.

points to a decrease in objectivity in education. Education which is without objectivity is merely propaganda.

Once again, Mr. President, I know that this will become law. Once again, however, I must say how disappointed I am in Congress for not following the will of the American people, for not at least pausing to try to determine what that will is, before embarking on this path—a path which I believe clearly our Founding Fathers would have opposed, and which clearly is contrary to the intent of the historical traditions of the American educational system.

In so saying, it is not that I feel that education in this country is without problems and without the need of great change and improvement, but I see no way in which that change and improvement combined is going to result from this ill-advised proposal. I recognize the sincerity with which the distinguished Senator from Connecticut and others who favor this proposal have met their duties and moved to do what they think is right, I just wish that Congress had spent a little bit more time before it made its decision to agree with them.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I

rise on the last occasion that I shall have to speak about the Department of Education Organziation Act, and I wish to begin my remarks, which will be brief, by expressing the gratitude and the admiration which I feel, and I cannot but suppose that we all feel, for the senior Senator from Connecticut, our beloved and admired colleague of all these years, whose is fulfilling a vow he made to himself many years ago when he was perhaps the most distinguished Secretary of Health, Education, and Welfare we have ever known, when he concluded that the organizational requirements of that department were such that the burden had simply become too great, and that the department, therefore, needed to be divided up, especially as the large Federal aid to education programs came into play and the educational component, from being a residual one, scarcely more than the Commissioner of Education established during the Civil War and the National Defense Education Act of 1957, and a few apprenticeship training programs, suddenly began to become a large and significant one. He saw that a move would come one day for it to be an independent department, and this has now come about.

I have opposed the creation of the Department for a set of reasons that it is clear to me do not immediately command the assent of persons who hear them expounded. I think that with greater effort, perhaps, and greater skill, surely it would be possible to make our point in a convincing way, but we have

> Education, contrary to people who speak of it as an "establishment," is a weak power, subject to whims and fashions in the country at large, and these show up in the attitudes of individual members of Congress and their aides, assistants and others. Therefore education is best served by being part of a much more powerful coalition in which it is joined with the rest of H.E.W. with its labor union and medical and other affiliations. Furthermore, education is, because of its weakness, vulnerable to attack because something done in one of the three thousand accredited postsecondary institutions by somebody may offend somebody or get in the papers. It therefore needs to have many diverse sources of support, combined with a certain precious obscurity.

I repeat, "a certain precious obscurity."

> Once it is separate, its target quality and actual weakness will be visible and this is a weakness not only vis-a-vis potential critics but potential lobbyists—captors—in the country. Education is best served by decentralization, not only in this huge and diverse country, but also within the federal government and its many agencies.

I should like now to draw attention to three events that have taken place since the beginning of this debate. The first such event was the nearly successful effort to attach to this bill a measure which would remove from the Supreme Court appellate jurisdiction with respect to questions of school prayer. There is not a more sensitive subject in this country—oh, there are subjects as sensitive, but none more so. The heart of the first amendment has to do with the avoidance with such great care, I shall only allude to a whole series of amendments adopted in the House of Representatives attaching conditions to this Department, having to do with all manner of issues—pedagogical, ideological, ethical—which shocked the people who were for the bill, as they were altogether contrary to the spirit in which this bill was put forward. But it happened precisely the way David Riesman said it would happen. I shall not list these mischievous and to me abhorrent amendments, because the chairman knows them will enough and the Record records them.

I congratulate the chairman on having eliminated every single one of those amendments in the final bill such that this conference bill is pristine in that respect. The Senate conferees are to be congratulated on prevailing on every single issue of any substance or consequence. But these provisions will be back next year in the next authorization or appropriations bill. They will be back, year after year, just as, one after another, the President will, by Executive order, transfer more activities into this Department. We shall not hear the end anytime soon about school prayer, about curriculum, about sex education, abortion, about a whole, endless series of "back to basics" or forward from, most of which will come as very unpleasant surprises to persons of liberal persuasion; for they will find these amendments not at all in the direction they would hope for.

Those who would like to find a care-not done so; and so I would wish to speak first as one who congratulates the Senator from Connecticut and who will pledge his loyalty to this new institution.

But before doing so finally, I would just wish to take note of how closely events have followed au forte, I dare to say, since the issue first appeared among us a year or two ago.

I speak to my friend and colleague of so many years, the junior Senator from California; I speak to that man who has soared above us all in so many ways, the Senator from New Mexico, who is also here; we are here in forlorn opposition to an event that has now become inevitable.

But I would like to make the point one last time, a point which I say was never successfully made, in that it seems never to have been grasped—that we risk the politicization of education itself, and that it will come about in ways that the system of education itself will not be able to resist. I would like to state the original argument and then given several instances in which this has already happened, I am sorry to say.

Here I acknowledge one last time the difficulty of making such an argument in terms that command assent.

As the chairman may recall, in the course of my first comments on this, I solicited a statement from David Riesman, who, I think we might agree, is the most distinguished commentator on American education of our time. I asked his judgment and he wrote back, saying he was very much against a Department of Education for this reason. I take the liberty of quoting him. He wrote:

of State-sponsored religion, the declaration that Congress shall make no law respecting an establishment of religion. School prayer in public schools is surely as close to that as one could imagine at this time.

But much more importantly, the whole basis of constitutionality in America since Marbury against Madison has been judicial review. And suddenly, the issue of the Department of Education brought us into a confrontation with the whole doctrine of judicial review.

The leadership of the Senate was adept. It moved speedily to transfer the particular amendment to another bill. But the fact is that, on April 5, by a vote of 47 to 37, if I am not mistaken, for the first time in the history of the U.S. Congress, we voted to take away this jurisdiction from the Supreme Court. If on school prayer, why not on—I shall not commence to list the issues that will henceforth be proposed. And when we do that, you may be sure that we shall pass such amendments handsomely. The leadership got it on another bill to spare this one. But it has happened. We have opened the possibility.

What does it lead to? It leads to an absolute confrontation with the Supreme Court of the United States. The Supreme Court would not accept any such law, and we might choose not to recede from it, and a constitutional crisis of the very first order will follow. All this from the Department of Education.

Second, Mr. President, because the chairman is listening so courteously and fully cataloged 3-page list of what those unpleasant surprises will consist of may do so in the July 11 CONGRESSIONAL RECORD, in remarks by the distinguished Member of the House, Representative ROBERT E. BAUMAN. Let them read and keep tab as the years go by.

Finally, Mr. President, and lastly, as I shall not keep the Senate all afternoon, I must mention something even David Riesman would not have predicted. That is an instance in which a former colleague and student of mine—and I say this in a sense of full disclosure—a young man who grew to be a distinguished social scientist and educator, a liberal and decent and compassionate man, had his reputation smeared and his own career interrupted by the ugly tactics and baseless allegations of persons who set out to entangle him in the politics of the Department of Education before it even existed.

Had the episode that I am now going to describe in brief occurred under a "conservative administration," it would have aroused the horrors of the liberal community as they saw the imposition of a political test on the research work of a qualified social scientist, and they would have said, "This is outrageous."

I am sorry to have to say that to my knowledge only the Washington Post and the New York Times rose to comment in this case.

I refer, of course, to the experience of Dr. Marshall Smith, who had served education and the present administration loyally and effectively. He came to Washington from the Harvard Graduate School of Education to serve in a senior position in the National Institute of Education, our research institute.

As the chairman knows, I had something to do with establishing that institute several years ago, with the particular purpose of insulating research from day-to-day pressures, and assuredly from the politics of education.

After a point, Dr. Smith, because of his great qualities and superb abilities, was appointed Assistant U.S. Commissioner of Education for Policy Studies.

Then the time came when Dr. Ernest Boyer, the Commissioner of Education, announced his return to private life.

On June 18, the then Secretary of HEW, Mr. Califano, sent around a directive indicating he intended to name Dr. Smith to the position of Acting Commissioner of Education on July 1 when Dr. Boyer's post was to become vacant.

Nine days later, we read in the Washington Post that a group of Congressmen were threatening to oppose President Carter's proposed Education Department because they objected to the findings of a research project in which Marshall Smith had taken part.

This research was done at Harvard University in the graduate school there, done by persons of great skill, persons of impeccably liberal political credentials, if that matters, persons who were compassionate and capable men and women.

Dr. Smith was not the principal researcher, but he took part.

There has, indeed, followed a controversy in the best tradition of social

I would sum up once more the three things I said.

In the course of getting the Department of Education, we have brought the Congress to the point where we may have a confrontation with the Supreme Court over judicial review. We have come within a hair of adopting provisions having all sorts of peculiar and unwelcome consequences, politicizing education at the highest level. Finally, we drove from Government an honorable young scholar whose only fault was that he participated in a research project which found results which others either misunderstood or, if they did understand them correctly, found unwelcome.

It may be that we have seen how quickly this can be generated. But I would say that those of us who thought such things would happen, and said so when we first discussed this question, have not as yet been proven wrong. I would think the case is that what we foresaw has, rather, come to pass.

With that, I have tried the patience of my incomparable friend, the Senator from Connecticut. He knows I wish this Department well and that I cannot imagine that anything begun with his sponsorship shall, in the end, come to an unhappy or ignoble fate.

I thank the Chair.

Mr. RIBICOFF. Mr. President, to my knowledge, there are no further speakers.

I move the adoption of the conference report.

The PRESIDING OFFICER (Mr.

The establishment of an Assistant Secretary focuses attention on vocational education as an equal partner with liberal arts education in America. Vocational education deserves this priority. Granting this recognition to vocational education, I believe we are taking a positive step toward enhancing the goals of vocational education.

Mr. President, I urge that my colleagues give favorable consideration to this provision in the conference report.

● Mr. BAYH. Mr. President, I am very pleased the Senate voted passage of the conference report which will create a Cabinet-level Department of Education. I have long supported such a reorganization and for that reason was an original cosponsor of the legislation.

The quality of education in our school systems today will dictate the quality of life we will experience in the future. Education shapes the lives of our Nation's youth more so than any other Government program. Our system has traditionally been one of the best in the world and we should strive to continue this custom as more complex questions and problems arise. Our Nation is great because of the importance we have placed on educating the young, disabled, emotionally handicapped, elderly, and other groups of individuals with special educational needs.

The conferees wisely decided to exclude some provisions added by the House which would have severely limited constitutional rights. These provisions were science as to how to interpret the results of the study which, in itself, was basically a study of Federal data. No one ever published a scintilla of ugliness of the kind that was raised in the Washington Post story.

To their credit, the Secretary of HEW, Mr. Joseph Califano, and the Under Secretary, our good friend Hale Champion, now returned to his position at Howard, said that in no circumstances would they dismiss Marshall Smith on such grounds, but the White House said, "Fire him." The White House said, "Fire him." And he was fired. For practical purposes he was fired, although technically he was given the opportunity to withdraw his name from consideration.

He was fired because his research reached what were judged to be unacceptable conclusions by persons who, I am sorry to have to say, I doubt very much even knew what those conclusions were. But their threat to withhold support from the Department of Education was sufficient for the White House to do this dishonorable thing, to declare that a scholar, searching for truth, will have the truth of his findings tested by their political acceptability.

It is a sin against the Holy Ghost. It offends against every tradition of liberalism. It is the disease of this century. It has happened already to this Department and I regret this.

I can only say, however, that it may be that in the three examples I have cited we will have learned how easily the purposes of this Department are distorted, how dangerous can be the depths which are reached in efforts to manipulate American education for profane puposes.

MATSUNAGA). The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. PRESSLER. Mr. President, as we consider the conference report for the Department of Education Organization Act, I wish to commend the conferees for their fine work. I believe this proposal emphasizes the important role of education in our society and gives deserved recognition to Vocational Education.

As the chairman of the Congressional Advisory Committee for Distributive Education Clubs of America (DECA) and an enthusiatic advocate of vocational education, I am pleased to see that the conference report includes the specific naming of an Assistant Secretary for Vocational and Adult Education. By establishing this position, I believe we will be able to strengthen and develop the efforts of vocational education. When this legislation was considered initially in the Senate, I sponsored an amendment to this effect which was adopted.

The growth of vocational education is essential in meeting the employment trends of our country. As vocational occupations become increasingly apparent in the next decade, specific skills acquired through vocational education programs will be necessary. And meeting those future manpower needs is a priority of vocational education. With over 15 million Americans involved in vocational education, I believe an Assistant Secretary is needed to represent and monitor the progress of this area.

obviously included in the House bill to defeat the establishment of a separate Department. To have retained such restrictive language would have severely injured the integrity of our educational system.

Even though good education has been a high priority for all Americans since the beginning of this country, the administration of the necessary programs has never been adequately tended to by the structure of the Federal Government. In 1867 the first Department of Education was established but was then quickly made into a Bureau of the Interior Department. For the next 70 years it kept its head above water as a recordkeeping office for the limited number of Federal education programs then in existence.

In 1953 the Department of Education became part of the new Department of Health, Education, and Welfare. It seems likely that education was included as an afterthought since its function was so overshadowed by the health and welfare duties of the new department.

The very important obligations of the education portion of health, education, and welfare have become lost in the maze of programs administered by the current structure. This is best illustrated by the budget of HEW. The amount spent for health and welfare is 18 times as large as the $9.1 billion budget of the Education Division. Outlays for the Education Division as a percentage of HEW spending have fallen from 7.9 percent in 1970 to 5.6 percent in fiscal year 1979.

In these times when everyone is concerned with Federal spending, it is easy to look at the massive HEW budget and attempt to reduce it. Unfortunately, the predominant portion of the Department's expenses which are uncontrollable fall within the education functions. The remaining uncontrollable expenses are for such necessary and essential programs as social security and medicare. As long as education remains in HEW, it will be lost except when it comes times to focus on target cuts, when education will suddenly be front and center. By establishing a separate Department of Education, the needs in the field of education will be assessed individually, thus assuring much more equitable treatment than has existed in the past.

The Federal education offices' structure will greatly improve with the creation of a new department. In the past, responsibility for the different functions in education were spread out among various departments in the Government. This caused much duplication of effort and wasted funds and left unclear to the vast number of interested persons where educational policy originated.

Almost one out of every three citizens in the country today is enrolled in some kind of educational endeavor. These 60 million people, in additon to the multitude of administrators running the programs, are entitled to know exactly where to go with education questions.

The creation of the post of Secretary of Education will remedy the problem which has existed within the divisions regarding the two seemingly equal post of Assistant Secretary of Education and the Commissioner of Education. The individual appointed to the position of Secretary of Education will coordinate all Governor, I worked to improve the quality of Iowa's education. In serving Iowa as U.S. Senator I will continue to work to improve all facets of our educational system.

A nation's greatest resource is its youth properly trained and educated. The responsibility for the direction, discipline, and subject matter—as well as financing—of public education must rest with the individual States.

In Iowa we have a very fine public school system with an excellent blend of diversity and competition from private schools. Iowans have always ranked in the top percentile among the States for literacy and quality education. I am proud and thankful for the quality of the educational opportunities which are accessible to Iowans.

I would remind Iowans that the quality in the educational system we now enjoy was built and developed by the good citizens of Iowa through local control and participation. We should keep it that way—and be especially vigilant in keeping the Federal bureaucracy from gaining control and direction of our educational programs.

In addition, at a time when inflation is running rampant, and when the controls on Government spending are not yet functioning, I cannot vote to add to the Federal bureaucracy and increased Government spending, by supporting the creation of a new Department of Education which will cost $13.5 billion and employ more than 16,000 Government employees to manage its affairs. I would hasten to point out that these figures are grown from a budget of $15,000 in 1867, to approximately $12 billion today with an additional $13 billion in educational related areas.

Mr. President, the creation of a new Department of Education is in and of itself, not the real problem, nor the real issue before us.

There is a more grave, almost sinister evil in what we are about to perpetuate upon the Nation and more importantly the American spirit.

This perpetuation I speak of has become so commonplace, so routine that it is virtually an invisible evil which is slowly and insidiously strangling the core of the American way of life and our Nation's most reliable and ardent resources—the creative individual and the sense of community within this country.

So fundamental is a sense of community to the quality of life, that its preservation and enhancement should long since have been made an explicit goal of public policy.

It is my strong belief that in order to be both effective and meaningful, our system of representative self-government must afford the creative individual the full opportunity to play a part in developing his or her community and ultimately society as a whole. The people of this Nation have watched the Congress of the United States pursue policies designed to enhance public understanding and to counteract complexity in government.

Unfortunately, the results of many Government actions over the past several decades has been to compound con-educational activities for the Federal Government. This Secretary will be able to devote all of his or her time to the field of education and guarantee that the new Department meets the challenge of providing the best education possible for our citizens and obtain the high visibility these matters deserve.

Presently education is going through a series of crises on such matters as violence in schools, lower scholastic scores, and inability of children to read, and lack of financial assistance to schools. A Cabinet-level Department is warranted to assist local and State governments in trying to cope with these many problems. Only in a department where all efforts are focused on education will progress be made on these disturbing problems.

Mr. President, we are not creating a new bureaucracy with the creation of a Cabinet-level Department which will channel all its energies into education matters. Instead we are reorganizing and streamlining a bureaucray which already exists. The legislation includes prohibitions on allowing the Department to grow in size—actually less employees will be in the new Department than are in the programs which will be transferred to it. We are already reducing the size of the bureaucracy.

I urge the House of Representatives to pass the conference report when it is before them for consideration. It is time for education to take its rightful place in Government.●

THE CREATIVE INDIVIDUAL AND THE SENSE OF COMMUNITY

Mr. JEPSEN. Mr. President, in my service as State senator, and Lieutenant just for the first year of operation. The action by the Congress at this time and on this item is unwarranted, unwise, and wholly contrary to less bureaucracy, less Government regulation and control, and less Government spending.

Mr. President, I rise today to address an issue that is of grave importance and of high interest to all Americans everywhere—the Federal role in education.

This Congress and particularly this body, is once again addressing the issue as to whether there ought to be a separate Department of Education.

I will briefly and simply state for the record that I oppose the Department of Education because I believe that "the creation of a Department of Education will bring the Federal Government even closer to the final determination of what, how, and by whom America will be taught."

I could further note that the creation of a Department of Education "flies in the face of less political intrusion into academia, less bureaucracy in the classroom and less Government in American life."

Mr. President, the record clearly notes that efforts to create a Cabinet-level Department of Education in the Federal Government has been an ongoing venture for the past 125 years.

In 1867, the first non-Cabinet Department of Education was established with a budget of less than $15,000 and less than 10 staff members. The primary responsibility of the Department then was to collect information on the condition of American education.

Today the Office of Education has fusion in the Government and in the lives of every day of America.

As a result of this confusion and continued complexity, individuals and communities are losing their identity, their creative nature, and their sense of purpose largely as a result of Government taking away from communities their ability to actively engage in decisions that affect the community directly.

Today we find community pride and direction disappearing, swallowed up by urbanization, flattened out uniformity, overwhelmed by complexity, diminished by distant bureaucracy, and exhausted by the mobility and more often immobility of their inhabitants.

Mr. President, we need a change in the way we approach the resolving of American problems. The pattern over the past several decades has been for Government to attempt to solve the problems of America instead of providing avenues for America to solve its own problems.

Everytime Congress enacts legislation which has the effect of diminishing the local participation and control of our citizens over their daily lives, we further perpetuate the destruction of the creative individual and the creative community.

Mr. President, I not only challenge and oppose the creation of a separate Department of Education, but I also seriously question the wisdom of this Congress in their attempt to further erode effective local participation by the citizens of this Nation in the care and supervision of education in America.

I specifically oppose the creation of a Department of Education because the purpose for which it is being offered is not at all what we the people will be getting.

As I examine the act, S. 210, and listen to the proponent of a new Department of Education, I note that the purposes of the Act are to:

1. Enable education to receive the appropriate emphasis at the federal level;

2. Continue and strengthen the federal commitment to insuring access by every individual to equal educational opportunities;

3. Supplement and complement the efforts of States, the local schools systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

4. Encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services;

5. Enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

6. (A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions; community organizations, parents, and students to implement the findings of such research at the local level; and

7. Supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the and local control of education. This language for the most part already exists in section 432 of the General Education Provisions Act of 1970, and is offered here merely as a seductive tranquilizer to those of us who have strong fears and equally strong convictions as to the Federal role in education.

The enactment of this act by this Congress will be a fundamentally political act, and not as suggested, a much needed act of legislative social surgery.

I echo the remarks of Mr. Breneman and Mr. Epstein of the Washington Post, April 6, 1978:

> This enactment of S. 210 is more than the mere attempt to reshuffling programs together under the organizing principle of education. It is in fact a profound restatement of Federal Policy, purpose and priorities and as such cannot be regarded merely as a move to correct organizational mistakes of the past.
>
> I do not believe the people of this nation really understand the nature of executive and government reorganization. Reorganization is a fundamentally political act, not in the partisan sense, but political in that every organization and every reorganization means a distribution or redistribution of power and influence over the substance of policy.
>
> Organization is not just management. It is policy and in the American democratic system policy is politics.
>
> To create a Department of Education is at heart, an exercise in policymaking and not in efficiency. Making education the defining element of a cabinet level department is essentially to authorize the creation of a federal policy for education itself.

Therefore, Mr. President, the question floor managers, Senators RIBICOFF and PERCY, and I commend them highly for their efforts.

During my years in the Senate, I have consistently advocated strengthening our educational system and making education one of our primary national priorities. The Department of Education bill we are about to vote on, like any other bill we consider, is a product of many compromises. It will not, by itself, cure the deplorable state of public education in this country, or guarantee the efficient delivery of educational service.

But it is clear to me that the current system is intolerable. The Department of Education gives us an important opportunity to focus attention on the problems of education at the Cabinet level. It will provide a forum for new ideas and new approaches. With time, I truly believe that the enhanced status of education in the Federal Government will lead to the kind of improvements we can all be proud of.

I also want to say a word about some of the controversial amendments that were in the House version of this bill that were deleted in conference. These amendments, dealing with subjects such as school prayer, abortion, busing, and affirmative action, had no place in a reorganization bill, and I was prepared to vote against this report had they remained in the bill. I am pleased to report, however, that the House conferees receded to the Senate position on each of these amendments. Where the bill now touches on civil rights at all,

> articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

The bottom line effect of the language in these seven sections is to erode away the direction and control of education by the States—and impose additional Federal controls and expense.

The act further states in regard to "State and local responsibilities for education":

> 1. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.
>
> 2. It [illegible] intention of the Congress in the establishment of the Department of Education [illegible] protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.
>
> B. Nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs.

Mr. President, I challenge the seriousness of the language pertaining to State arises not so much as to whether there should be a Federal policy on education, but rather do we need an amended Federal policy on education, articulated and wholly influenced by Washington, D.C., from Washington, D.C., and for Washington, D.C. The answer to this question is a resounding "No."

Mr. LEVIN. Mr. President, I urge the Members of the Senate to support the conference report on the Department of Education. I believe that the creation of the Department can have a streamlining effect on the multitude of education programs currently spread out through various departments within the Federal Government. I also believe that the bill protects local control of the educational process.

I was appointed to serve on the conference committee which reconciled the points of difference between the Senate and House versions of this bill. I urge the Members of the Senate to vote to accept the conference report. The conference was harmonious and the report that will be voted on today contains almost all the provisions of the Senate bill. Much of what the Senate conferees found objectionable in the House bill has now been deleted. As it now stands, we have a bill which is a reorganization bill and, I believe, will better serve the educational needs of our students and schools.

Mr. JAVITS. Mr. President, I support the conference report on S. 210, the Department of Education Organization Act on which I was a conferee. The report before us today is the culmination of long years of hard work by the distinguished such as in section 101(2), it restates existing law. It was the clear intention of the conferees that nothing in the bill was intended to change or affect existing law or judicial precedent in these areas. It is with this understanding that I will vote for the adoption of this report.

Mr. RIBICOFF. Mr. President, to my knowledge, there are no further speakers.

I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. MORGAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

On this vote, the Senator from West Virginia (Mr. RANDOLPH) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from West Virginia would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and

voting, the Senator from Utah (Mr. GARN) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted and who desire to vote?

The result was announced—yeas 69, nays 22, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—69

Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Williams
Zorinsky

NAYS—22

Armstrong
Byrd, Harry F., Jr.
Byrd, Robert C.
Cohen
Dole
Exon
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Moynihan
Proxmire
Schmitt
Schweiker
Tower
Wallop
Warner
Young

NOT VOTING—9

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Baker
Biden
Garn
Goldwater
McClure
Morgan
Randolph
Stevens
Weicker.

So the conference report was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEPSEN. Mr. President, we voted today the creation of a Department of Education. I voted "nay" on that. I cannot conceive, at this time of inflation and trying to balance the budget, anything that would be less desirable and is less justifiable than to create a brand new Federal department.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

Vol. 125 WASHINGTON, THURSDAY, SEPTEMBER 27, 1979 No. 127

House of Representatives

CONFERENCE REPORT ON S. 210, DEPARTMENT OF EDUCATION ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I call up the conference report on the Senate bill (S. 210) to establish a Department of Education.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceeding of the House of September 21, 1979.)

The SPEAKER. The gentleman from

The conference agreement contains a strong prohibition against any interference by the Department of Education in education matters that are now the responsibility of State and local authorities. The section, which borrows from both bills, states affirmatively that establishment of the Department will neither increase Federal authority nor diminish State and local responsibility. The language has the strong support of the National School Boards Association and the National Conference of State Legislatures, groups made up of officials who are most directly concerned with the preservation of State and local control of education.

tional policy that went far beyond the scope of the House bill as it was reported by the Government Operations Committee. There were no comparable amendments in the Senate bill, and the Senate conferees were adamant in their refusal to accept them.

Mr. Speaker, the conference procedure is designed to settle differences between the House and Senate for the enactment of legislation that a majority of both Houses has found to be in the national interest. The overriding responsibility of the House conferees on this occasion was to bring back a bill that will create a viable and efficient Department of Education.

Texas (Mr. Brooks) will be recognized for 30 minutes, and the gentleman from New York (Mr. Horton) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference agreement that we bring before the House today carries out the basic purpose of the bill the House passed last July. It creates a Cabinet-level Department of Education to provide more efficient administration of the wide variety of education programs now scattered throughout the Federal Government.

The agreement follows closely the organizational structure of the House bill. It also tracks the House bill on the programs to be transferred to the new Department. There was only one major difference here—the Senate bill transferred the nursing and health professions student loan program and the House did not. The Senate receded and that program remains in the Department of Health, Education, and Welfare.

The agreement also combines provisions from both bills in placing strict limits on the number of personnel that the new Department will be able to employ. The House bill called for a reduction of 800 full-time permanent positions by the end of the Department's first year of operations. The Senate had no reduction in personnel but provided that Congress would set annual personnel limits. The conference agreement adopts the Senate approach on annual personnel limitations and also mandates a reduction of 500 full-time positions by the end of the first year. This provision will give Congress control over the growth of the Department and make sure it does not become another runaway bureaucracy.

The agreement provides further congressional oversight and control over the Department by incorporating, without change, the legislative veto provision that was in the House bill.

Those are the essential features of the conference agreement. Now, for what is not in it. Several amendments were added to the House bill during floor consideration that dealt with matters outside the organization of the new Department. These were highly controversial amendments, raising questions of na-

I should add, Mr. Speaker, that the subject matter of these disputed amendments is covered extensively in existing laws, court decisions, and the Constitution. The policies established by those laws and court rulings will be controlling on the Department of Education, just as they are on all other activities of the Federal Government.

In closing, Mr. Speaker, I would emphasize the following points:

First. This bill will make one person, a Secretary of Education, responsible and accountable for Federal education programs;

Second. The bill will consolidate over 150 Federal education programs under one roof and is expected to save as much as $100 million through elimination of duplication and improved administration.

Third. It provides for more involvement of State and local officials in the Federal Government's education programs;

Fourth. The bill contains rigid personnel limitations to insure there is no unchecked growth in Government bureaucracy;

Fifth. It reduces Federal Government personnel in these programs by 500 people; and

Sixth. It gives the Federal Government a chance to run its education programs efficiently and economically for the benefit of 60 million American students, parents, and teachers.

This agreement is a worthy product of the conference procedure and it deserves the support of the House.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report on S. 210, the Department of Education Organization Act of 1979.

This legislation has been thoroughly explored in the Committee of the Whole House through some 25 hours of general debate.

The conference report draws on the best provisions of the Senate and House bills. Ambiguities have been eliminated and accommodations have been reached on a number of differences while retaining the essential purposes of both House and Senate provisions.

There were serious disagreements over several highly controversial amendments that had been adopted by the House during floor consideration of the bill. Most of the disputed amendments did not deal with matters related to the organization of the Department, but rather with matters of national policy which are set forth in a number of existing laws, court decisions, and the Constitution. The Senate conferees insisted on the deletion of those provisions not directly related to the establishment and organization of the Department.

[The budget] for HEW is the third largest in the world. The organizational structure is so complicated and stratified that it is impossible to get things done. Buried in this HEW bureaucracy is the Office of Education. In the last 12 years there have been 14 Commissioners of that office. That fact alone speaks volumes about how serious the deterioration of the management of important Federal education programs has become.

Under the current structure in HEW, planning and operational decisions are not sufficiently coordinated, and functions are duplicated in the various components of the bureaucracy. Passage of this legislation will provide us with a much simplified administrative structure. That in itself will improve management.

The creation of this new Department will reduce the size of the bureaucracy. The conference report requires that by the end of its first year of operation the number of full-time positions transfererd to the new Department be reduced by 500. The Department will not be allowed to grow unless specified by Congress. Further, the conference report contains a provision which insures continuing congressional oversight and control over the size of the Department's work force. In a provision unprecedented for domestic agencies, the report requires that each appropriation act set an annual limitation on work-years for the Department's personnel.

The creation of this new Department will produce a clear savings of between [...] cational institutions, and students. The time required to develop budget and legislative proposals will be substantially reduced. There will be far better coordination between the education programs in the new department and those remaining outside it. Finally, there will be a single, highly visible official, accountable to the President and the public, for the effective managment of the Federal education effort.

For these reasons I urge a favorable vote on this important legislation.

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Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I wish to add my support for this conference report on the Department of Education. I want to commend particularly the conferees on their work. They have produced legislation that strengthens the American tradition of local control of education. A Department of Education as envisioned in the legislation now before us would reduce the number of offices and the amount of time necessary to process funds to school districts. At the same time the conference report recognizes "the rights of States and local governments and public and private educational institutions in the areas of educational policies."

I want particularly to commend the distinguished conferees and the chairman (Mr. BROOKS) because of the concern that they have expressed to pro-

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As a reading of the conference report makes clear, neither House prevailed on all the points of difference in the two bills—but that is the nature of a conference. The report represents a middle ground between the House and Senate bills which allows us to achieve the central purpose of creating an organizational structure to improve administration of Federal education programs. The conference report is a solid piece of legislation which I hope will attract the support of those concerned with improving the management of Government.

There has been a lot of public discussion of this reorganization proposal as a whole and the House amendments in particular. Unfortunately, little of that discussion has focused on the fundamental issue involved, which is simply the effective management of Federal education programs.

Freed of controversial amendments involving matters extraneous to the task of reorganization, this legislation presents a simple issue. Members can vote for the proposed reorganization or they can vote against it and retain the status quo. Votes can be cast for bringing some organizational sense to the administrative chaos that now exists in the education portion of HEW or votes can be cast against the reorganization and thus perpetuate the same inefficient, ineffective, costly, and bureaucratic arrangement we now have. I urge you to vote for improved management; for this badly needed reorganization.

Such legislation is necessary because HEW is too large to effectively manage the programs assigned to it. The budget $15 and $19 million—more than enough to offset the expected transition costs of $10 million. In addition, the Office of Management and Budget estimates potential savings of $100 million in the long run through improved financial management and audit systems geared specifically to education.

The legislation expressly, specifically, and clearly addresses the issue of Federal involvement in education policy. The conference report states affirmatively that establishment of the Department shall neither increase Federal authority nor diminish State and local responsibility. This language, from the Senate bill, is strongly supported by the National Conference of State Legislatures—a group made up of the officials who are most directly concerned with preservation of State and local control of education.

In summary, the main benefit in creating this new Department is improved management. The legislation does not create any new education programs. It does not set any new education policy. It does not create a new education bureaucracy. In fact, it reduces the bureaucracy. The legislation does not interfere in any way with State and local control of education. The legislation is designed to end duplication and fragmentation in the administration of the Federal education effort, and to establish clear accountability within the Government for that administration.

The benefits of improved management of Federal education programs will be many. There will be less redtape and better service to States, localities, educational institutions, and students. The legislation contains provisions designed to provide equal access of all Americans to educational opportunities. I am pleased at the language in this bill regarding equality of access of educational opportunities. I think we should note, Mr. Speaker, precisely what it says, that this language "is not intended to change or affect existing law or judicial precedent."

Finally, as an educator I want to commend the conferees for proposing legislation that when enacted will guarantee that education receive the attention it deserves. A Secretary of Education will increase the visibility, the accountability, and the coordination of programs that train and teach the American people.

Mr. Speaker, I urge an aye vote on this conference report. I hope that the Congress today will accept the opportunity to create a Department of Education that will work with officials in the cities and towns across this country to improve both the quality of education and access to education of all of our citizens.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Erlenborn).

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, here we are again with a reorganization bill to create a new Department. We had one not too long ago, a bill to create the Department of Energy, and I heard the same claims then that I hear today. It was going to provide more efficiency. It was going to consolidate programs. It was going to make Government work better and be more responsive. I believed that then. A lot of us believed that, and we created the Department of Energy. And what has happened? I think we all know. I have heard Member after Member in the Halls of the House say what a mistake we made to believe those claims. "Fool me once, shame on you; fool me twice, shame on me." That is an old saying, and I think it is one we had better believe. We have been fooled once. Do not be fooled again.

What is this fight about? It is about the future course of education in the United States. We recall earlier this year the Vice President of the United States said that it is a shame we are the only Western industrialized country that does not have a Ministry of Education. To that I say, thank God. We have had a long history of local control of education, and it is something that has helped to foster education, help it grow until we have the best educational system in the world here in the United States. It has shortcomings. I think we can all agree to that. But the shortcomings are not based on a lack of central control. The strength of our system is based on the lack of central control. Why do I think that central control will come about by the creation of this Department? I think it is obvious on its face. There are those who say we will not have policymaking out of this Department. What is a department of the Federal Government meant to do? Establish policy. And if there is a Department of Education, it is going to be establishing

amendment in the conference? Without debate, the managers of the House conferees moved to recede from that amendment. They accepted it on the floor of the House. They told us then there would never be any imposition by the Federal departments that would interfere with local control but then they went to conference and they sold out the House and got rid of the amendment that they accepted here.

Mr. Speaker, we had another amendment that was meant to limit Federal control over education and that was the Ashbrook amendment. It was so noncontroversial it was adopted by a voice vote. What happened? When we went to conference the House conferees moved to recede.

Mr. Speaker, I am here to tell you now if you vote for this conference report you are voting for Federal control of education and that is what some people in this country want, but we should not.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MOORHEAD).

(Mr. MOORHEAD of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in opposition to the Department of Education conference report.

I opposed the legislation in subcommittee, in the full committee—where it carried by a single vote, and on the floor of the House—where it squeaked by with

of freedom and a rich variety of education policies that have been the envy of the world.

Let us not abandon that rich variety for the bland pabulum or the danger of mind control that could come with a single national education policy.

Let us reject this conference report.

Mr. HORTON. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. STANGELAND).

(Mr. STANGELAND asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, to me today is a dark day for what we are doing with this conference report on the Department of Education. We are doing something that the vast majority of the people of this country do not want and feel strongly that we do not need.

You know, it is incongruous to me that in his campaign our President ran against the Washington establishment. He ran against the bureaucracy. He assured the people he was gonig to reduce the size of the bureaucracy and yet here we are creating an other Cabinet level.

Mr. Speaker, my colleague, the gentleman from Pennsylvania (Mr. MOORHEAD) stated what this bill purports to do, as far as efficiency in management of education is concerned, can be done by a simple act of reorganization within the present structure of HEW. The purpose of the Cabinet post is really policy. Many words are written into this legislation policy for education in the United States. How will they do that? Very simply. They already have the pattern. We have watched categorical aid grow by leaps and bounds over the last 10 or 15 years. Categorical aid by its very nature is narrow, special-purpose grants tightly controlled by rules and regulations drawn here by the Office of Education. If we create a Department of Education, the only way we can go is to have more rules and regulations, more categorical aid, more central control over education from the Department of Education in Washington. There are those who say, "Oh, there are safeguards in the bill."

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There were some safeguards put in the bill. Let me call attention to one sponsored by the gentleman from Texas (Mr. HANCE) and the gentleman from Missouri (Mr. SKELTON). They offered it here on the floor of the House at a time when the sponsors to this legislation were telling us how they wanted the Federal Government not to control local decision-making in education. That amendment said there could be no cutoff of funds for the purpose of imposing Department of Education decisions relative to curricula, program of instruction, administration, personnel, the selection of library resources, text books, and other instructional materials except where specifically authorized by law, when that was offered by Hance and Skelton, the managers of the bill said, "Yes, of course, that is what we mean that is what we want and your amendment really states it better; we accept it." The amendment was accepted by voice vote here on the floor of the House.

Mr. Speaker, what happened to that a 4-vote margin.

I oppose this legislation because it is unwise, unnecessary, and potentially dangerous.

It is unwise because good government would indicate fewer rather than more Cabinet-level departments. For years this country got along with eight or nine departments. No new departments were created after 1913 until recent years when we apparently felt that in order to solve problems we must create departments to do so—Health, Education, and Welfare, Housing and Urban Development, Department of Transportation, Department of Energy, and, now, a new Department of Education.

Not only is this legislation unwise, it is unnecessary. If there is inefficiency in the education portion of HEW, it can be corrected internally without the creation of a new superstructure of bureaucracy.

More serious than the fact that this legislation is unwise and unnecessary is the fact that it is potentially very dangerous.

We should not create a department unless we want to use it to establish a national policy, for example, a State Department to establish a foreign policy, a Defense Department for a defense policy, or an Agriculture Department for a farm policy.

If there is one thing that I do not want to see in the United States, it is a national education policy.

Historically, traditionally, and wisely, education policy has been left to local institutions, State institutions, and private institutions.

The result has been the preservation to assure that we do not get into establishing Federal policy in education.

Mr. Speaker, those who control the purse strings write the policy. If they do not write it in a certain way, they can write it by withholding money and withholding dollars. It has been said that we are the only major industrial nation without a Federal Ministry of Education. That is true. That is by design. The framers of the Constitution in their wisdom realized that education should be a local issue, that education should meet the needs on a local level, be formulated by local people with concern for their children and the education of their children.

Mr. Speaker, there are those in this country who think education is the responsibility of the State and the Government but the real responsibility for education is with the family and with the home and on the local level.

Mr. Speaker, many of us regret the vote we cast in the last session creating a Department of Energy for all those efficiencies of management and consolidation it was going to bring. Well, we are going to regret this vote even more for what it is going to do to education in this country.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from South Dakota.

(Mr. ABDNOR asked and was given permission to revise and extend his remarks.)

Mr. ABDNOR. Mr. Speaker, when the House narrowly passed H.R. 2444 in July, we all knew that certain of the amendments we had added in an attempt to improve the bill would be targeted for elimination in conference.

To stress the importance of our amendments we gave the House managers some specific instructions—instructions which have been totally disregarded.

Quite frankly, Mr. Speaker, I am appalled at the conference report we are being asked to approve. Not only has every important amendment added by the House been eliminated or gutted, but we are entering into whole new areas of reorganization never anticipated by the House section 510, specifically, areas which go far beyond any reasonable scope of a Department of Education.

I must compliment my colleagues from both sides of the aisle, who had the courage to withhold their signatures from the conference report.

Mr. Speaker, we do not have a conference report—we have a sell-out. Unfortunately, we are selling out the children of this Nation. It is their education that is in the balance.

This conference report well justifies the fears of many of us who are worried about erosion of local control, about costs, about bureaucratic growth, about politicization, about exclusion of so many programs, about academic freedom, about the future of our Nation's tradition for educational excellence.

This conference report is not aimed at achieving efficiency, effectiveness and economy in education. It is aimed only at fulfilling a campaign promise to one particular group.

Mr. Speaker, my question is this: What kind of guarantee do I have and do the Members of the House have on the adopted language that is there, that would provide and assure us that Federal control is not going to ride roughshod over the prerogatives of the State and local school districts?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, section 103 of the conference report combines important provisions of both the House bill and the Senate bill, prohibiting Federal control of education. It takes from the Senate bill the specification that establishment of the department shall not increase Federal authority or diminish State and local authority. In addition, the conference report adopts the language of H.R. 2444 as reported by the House Committee on Government Operations, specifying local educational prerogatives over which the Secretary or other department offices may not exercise direction, supervision, or control except to the extent authorized by law.

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This provision, combined with the legislative history that has been compiled in both Houses during their consideration of this bill, clearly insures that local control of education will be continued.

Mr. SKELTON. Mr. Speaker, once again, I must reiterate my concern over protecting the role of local jurisdictions in determining educational policies. We conference report is the proponents' document. There was not one member of the conference committee who opposes this bill who signed this document; so what is in this document is essentially the work of the proponents of this department. It should be considered that way.

Now, it is said that this document contains a simple reorganization that is designed to promote educational efficiency. Except that when we had the department of energy before us, we were told exactly the opposite, we were told then that when you create a department you are, in effect, making new policy, that the creation of that department would move energy policy in a new direction.

Now we are told something different when it is the Department of education.

We were also told that this does not make any policy changes, but yet when you look within the document you find that the Secretary is authorized with the stroke of his pen to eliminate things like the Office of Non-Public Education. If that is not a policy change, then I have trouble understanding what policy changes are all about. This document is full of exceptions. We just heard a long discourse here about local control, and there is strong local control language in here. Read it. Boy, it sounds great; except that it ends in these words, the exception is: "Except to the extent authorized by law."

We can authorize anything by law. What that says is that you can continue to federalize this department.

The children of this Nation should not be the pawns in any campaign promise.

But if we approve this conference report, they will be.

I urge my colleagues to join me in voting down this report.

Mr. STANGELAND. Mr. Speaker, I urge a no vote on this conference report and yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I take this time for the purpose of engaging the chairman of the Committee on Government Operations in colloquy.

Mr. Speaker, a number of us are very concerned about the preservation of local control in our schools. During the initial consideration of this bill I was successful in having an amendment adopted which clarified and reinforced the language of section 103. The Skelton amendment did this by prohibiting the proposed Department of Education from withholding funds from any educational institution, school, or school system on the basis of any department requirements relating to curriculae, program of instruction, administration, personnel, and the selection of library resources, text books, or other instructional materials, except, of course, where specifically authorized by law.

Mr. Speaker, I am distressed that this important amendment was not included when the measure came out of conference. We are dealing with this country's most valuable resource, that is our children.

Let me ask this: Is it the intent of the language of section 103(b) of this conference report to accompany the Senate bill (S. 210) that funds provided under any program administered by the Secretary or the Department may not be suspended, terminated, or otherwise withheld from any educational institution or school system which does not comply with Department directives in these areas except where atuhorized by law?

Mr. BROOKS. The conference report clearly indicates the intention of the Congress that the rights of State and local governments and public and private educational institutions are to be protected and that the establishment of the Department of Education shall not increase the authority of the Federal Government over education, nor diminish the responsiblity reserved to State and local school systems.

Mr. SKELTON. Mr. Speaker, I appreciate the gentleman yielding on this, for making this legislative history that we hope will be kept and adhered to.

Mr. HORTON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

(Mr. WALKER asked and was given permission to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I would like to make a couple points about this conference report, because I think it is important to understand what it is we are voting on. I think we ought to understand, first of all, that this con-

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Yes, I would be glad to yield.

Mr. ERLENBORN. Mr. Speaker, the bill as it passed the House said "except as authorized by statute." This was changed to say "except as authorized by law," so that it would include rules and regulations. Now they can cut off funds based on rules and regulations only.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that clarification, because I think that is absolutely right.

Also, this bill supposedly contains strong limitations on increased personnel within the Department, except students and disadvantaged youths, full-time, part-time experts, and consultants. That covers practically everybody. It is an exception within this thing.

The Quayle amendment that was adopted in this House said that we were going to cut the number of personnel in this Department by 800 people. This bill makes it 500, but then has that exception.

Already the proponents of this Department are talking about expanding the size. I have a letter written by the President of the United States in which he is already talking about adding a new Assistant Secretary to this Department. The bill has not even cleared Congress and they are already adding high level, top echelon bureaucrats.

Also, if you take a look at this document, you will find that within this document we are not creating one department, we are creating two departments. We are creating a Department of Education and then we are also creating a Department of Health and Human Services.

You say, well, it is just renaming HEW, except for one thing. If you will also take a look, you will find that we are giving that new Department, that Health and Human Services Department, new duties and those new duties are involved with the handicapped; but nevertheless, it is a reorganization, what you have is two new Departments growing in size.

Then I think we ought to take a look at the amendments that were added by this House, the amendments that have been described in the press and on this floor as controversial amendments. There is the amendment dealing with school prayer. That is not controversial. The American people, 85 percent of them, support it.

The amendment dealing with antiquotas. That is not controversial to the American people. Seventy-five to 80 percent of them support antiquota legislation.

Antibusing, antiabortion were added. They were considered controversial amendments that were taken out in the conference committee.

Well, the substance of those amendments was important. It was important to me. I offered a couple of them, but also what was important is what it should tell you about this bill, what it should tell you about this Department, because what it now tells you is that this Deparament is going to be antiprayer. It is going to be probusing. It is going to be proabortion and it is going to expand into areas of

partment in this Chamber. Everybody who says they are going to vote for it say, "Well, I made a commitment or a promise to some people back in the district."

Others of us say, "Well, we want to pass this bill because we don't want to embarrass the President."

Very few people have analyzed the theory of management that goes into the creation of new departments. In the past 30 years, there have been three studies appointed by three different Presidents; the Second Hoover Commission, the Heineman Commission and the Ash Council. All three of them had the best and most superbly equipped people to review Government organization and structure. They said one thing in unison, "Reduce the number of departments, have departments organized around broad missions, integrate professional skills."

And the one thing they said you should not do, do not create departments for one profession or one clientele group.

The creation of this Department violates every modern day management pronouncement and rule in the book. I do not see how we can face ourselves if we are serious about our legislative responsibilities.

I do not want to embarrass the President. I would be willing to keep all the teachers in the country happy; but the price is too high. This is not a price we can pay once out of 14 times in 200 years.

☐ 1320

This was a bad idea when it was conceived, it was a bad idea when it passed

tinued. Let me read the language to the Members. This is the language in paragraph (b)(1) of this subsection:

> The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

We have given the Secretary authority to terminate and to eliminate programs enacted by law. This is the broadest authority we have ever delegated in any reorganization bill. No matter what anyone says here on this floor this afternoon, we cannot take away from or modify or change this language.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I would like to ask the committee chairman a question.

The gentleman from New York (Mr. ROSENTHAL) has suggested that the conferees accepted the Senate approach of listing programs that would be open for administrative elimination. This is a concern shared by many of us.

Could the gentleman from Texas (Mr. BROOKS) tell us whether or not the Secretary will have authority to eliminate programs under section 413?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that is absolutely incorrect. Neither the House bill, the Senate bill, nor the conference has permitted the administrative elimination of programs.

social concern in exactly the opposite direction from which the American people want to go; so please, please study the conference report, take it for what the proponents say it is. If this conference report, if this bill had been brought to the House in this form when we originally considered it, it would have been run off the floor; but it is brought back now as a fait accompli. It is the Senate bill. It is the bill of the other body and if you take a look when they debated this conference report, you will find out that in the other body they congratulated themselves for passing their bill.

Now, that should tell us something, too; so please, please do not reject this conference report just for what people like me and the rest of the opponents are telling you is wrong with it; reject this conference report because of what the proponents tell you is right with it.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Rosenthal).

(Mr. ROSENTHAL asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Speaker, I think it is regrettable that we do not have an opportunity to fully, completely and fairly deal with this bill within the constraints of a 1-hour debate. In the history of the Republic, 14 Cabinet-level departments have been created. We may or may not create one this afternoon. If it is created, it will not be on the merits. It will be because this has been the most intensely lobbied reorganization bill that has ever appeared in Congress. There is nobody who is really for this new Department

the House by four votes, and I hope this idea will be defeated here today.

Additionally, let me say that the conference took liberties which no conference committee has a right to do. They have added section 413 which unilaterally gives this new Secretary the opportunity to terminate, to eliminate, and to discontinue over a dozen programs that are on the statute books today, including the Office of Bilingual Education, the Teachers Corps, the Community College Unit, the National Center for Education Statistics, the National Institute of Education, the Office of Consumer Education, and half a dozen others.

Mr. Speaker, no matter what anyone says here today, that is in the conference report, the Secretary has that authority, and nobody can say anything to the contrary.

The SPEAKER pro tempore (Mr. Dicks). The time of the gentleman from New York (Mr. Rosenthal) has expired.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman from New York (Mr. Horton) yield me additional time?

Mr. HORTON. Mr. Speaker, I do not have much time left, but I will yield 1 additional minute to the gentleman from New York (Mr. Rosenthal).

Mr. ROSENTHAL. Mr. Speaker, I am delighted that my beloved colleague, the gentleman from New York (Mr. Horton) has been so kind and generous.

Mr. Speaker, I ask the Members, please, please read the conference report. I ask them to read the language on page 19, section 413. In no uncertain terms they enunciate the hit list, and that is a hit list of programs that may be discon-

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. Mr. Speaker, I will ask the gentleman this question:

In section (b)(2) we find the language saying that whatever it is the Secretary can do can only be done "upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary * * *".

I presume that the conferees anticipated that that would have to be a meaningful notice.

Is it fair to interpret that section to mean 90 legislative days so that we would in fact have an opportunity to act?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, that would certainly be my interpretation, I will say to the gentleman from Michigan (Mr. Ford)

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. HORTON. Mr. Speaker, if the gentleman will yield, that is also my understanding, 90 legislative days.

Mr. FORD of Michigan. Mr. Speaker, I share the concerns expressed by the gentleman from New York (Mr. Rosenthal), but with that assurance from the majority leaders of the House committee, I am satisfied and will support the conference report.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield for a question.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. Ford) has expired.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman from New York (Mr. HORTON) yield further time to me?

Mr. HORTON. Mr. Speaker, I am afraid I have no further time to yield to the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Speaker, the gentleman from Michigan (Mr. FORD) raised the question of the Secretary's authority to carry out the termination of programs. I will respond to the gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) and say that all we have is an option for notice, but we have no opportunity to do anything about it.

Can anybody tell us what the real facts are? Since nobody can, I suggest that the Members read page 19 of the conference report and find out for themselves.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from New York (Mr. ROSENTHAL) for his very valuable contribution.

Mr. Speaker, as I listen to the points being raised on both sides of this debate, I am reminded of the words of an old popular song:

But instead, we have taken up numerous hours of debate on a Department of Education. The establishment of a new department is irrelevant to the needs of American children. Those who support it do so with a singular lack of enthusiasm, as if they wish to show that they recognize the bureaucratic folly they defend.

We are avoiding the hard issues of education. We have avoided them for too many years. We pat ourselves on the back, spending tax dollars for something we call "education," but we have little idea whether those Federal dollars are doing any good or not. We should be asking ourselves the tough questions.

But what do we do? Do we debate these issues? Of course not. We spend our time arguing over a department that nobody can honestly say is absolutely necessary, a department that should be called "the Special Interest Memorial Prize of 1979."

Mr. Speaker, I urge all my colleagues to take a long, hard, last look at the conference report, as suggested by my friend, the gentleman from New York (Mr. ROSENTHAL), and vote against it. It would not do the children any good. It would not do the taxpayers any good. It would not do the parents any good. It will expand the Federal bureaucracy. It will expand Federal control and interference in local affairs, the very last thing the American people want. That is what we are voting on, and that is what we are voting for if we adopt this conference report.

So, Mr. Speaker, I ask you, what good

> There is a continual need to insure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex.

Unfortunately, the real need and intent of affirmative action has been disguised in this Congress by a focus on numbers and quotas. In reality, affirmative action is any effort to end discrimination. It includes many activities which are not at all controversial. It included notifying minority and women's groups about job openings and student placement possibilities, advertising those openings and placement possibilities, and developing and implementing recruiting procedures aimed at women and minorities as well as other qualified applicants.

The conference language is not a prohibition on numerical measures of any kind. It is merely a statement of principles which should guide the new Department in its efforts to provide equal educational opportunity to everyone. In fact, the conference report even goes so far as to state that nothing in the substitute language is intended to change or affect existing law or judicial precedent in the area of affirmative action. For this reason, I consider the actions of my colleagues to be supportive of the need for affirmative action.

I am not suggesting that Congress should not be concerned about the appearance or tone of sex or race conscious employment and admissions programs that include the controversial

> I know each word, because I've heard that song before . . .

We have all heard this song before, have we not? We have through an interminable debate arguing about a Department of Education, the single most irrelevant issue in American education today.

We should be discussing the important education issues. We should be discussing why scholarly studies show that compensatory education programs have minimal benefit at best, although we continue to pour billions of tax dollars into them.

We should be discussing why public confidence in the people who run public schools is the lowest in 6 years, according to a recent Federal study.

We should be studying the negative impact of Federal intervention in local school affairs.

We should be discussing the recent U.S. News & World Report article which reads: "Calls To Upgrade Education Are Reaching Fever Pitch."

We should be talking about mathematical skills declining in the past 5 years among students in the age group of 9, 13, and 17.

Federal programs of the 1960's aimed at wiping out illiteracy have failed, says the Ford Foundation. But we do not talk about that.

We should be talking about the fact that scholastic aptitude tests are down again despite predictions that 1979 would show an upturn.

In short, we should be talking about what is really wrong with education, and what can be done about it.

is it? A vote against this conference report, let me say to my friends, is indeed a vote for American children. Once this silly idea is consigned to the oblivion it richly deserves, let us have the courage to admit that the Federal Government does not know what it is doing in education, and we had better go back to square 1 and begin all over again.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Stokes).

(Mr. STOKES asked and was given permission to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, I rise in support of the conference report. Mr. Speaker, as a supporter of a Cabinet-level Department of Education, I am pleased to find that my colleagues on the conference committee agreed to drop all of the anticivil rights measures that were added to the bill by this body. Amendments prohibiting busing for desegregation, forbidding numerical quotas in affirmative action measures, and denying abortions to Department personnel had no place in a bill that is simply designed to reorganize the Federal Government so as to give greater priority to educational issues. Neither did a provision allowing prayer in public schools. Unfortunately, I am not comforted by the mere removal of these amendments by the conferees. Had it not been for the extensive lobbying of civil rights groups, I am certain that the anticivil rights moods of the Congress would have prevailed.

I am aware that substitute language for the Walker affirmative action amendment was adopted. The language states: concept of numerical goals and time tables. We all know that historically quota systems have been used to exclude people. Rigid quota systems are not, therefore, a desirable part of affirmative action. Goals, on the other hand, are targets for inclusion of people previously excluded. Goals are an attempt to estimate what an institution's faculty and student body would look like if there were no illegal discrimination based on race or sex. Attempts to achieve this end should not be labeled as reverse discrimination or as a relaxation of admission criteria. Rather, they should be viewed as action necessary to remedy past discriminatory practices.

Some of my colleagues would contend that with the passage of antidiscrimination and civil rights laws in the 1960's and 1970's, the ability of minorities and women to compete on an equal basis for jobs has improved. This is not true. A report by Robert B. Hall, director of research for the National Urban League, entitled "The Widening Economic Gap" amply demonstrates the fallacy of such arguments. Mr. Hall shows that the income gap between white and black families has continued to grow. Between 1975 and 1977, the ratio of black-to-white family income dropped to 57 percent from 62 percent, the largest gap during the decade. The living standards of middle-income blacks are being eroded by inflation and recession faster than the standards of whites. While the proportion of families with incomes of $15,000 or more increased among whites from 56 percent to 57 percent, the proportion of black families in that category decreased from 31 percent to 30 percent. Blacks obtained one of the smallest shares of new private sector jobs. Over half, or 53 percent, of such jobs created from 1974 to 1977 went to Anglo women, 26 percent went to white men, 12 percent were obtained by Hispanics, while only 5 percent went to blacks and Asian Americans. Finally, white high school dropouts have lower unemployment rates, 16.7 percent than black youths with some college education, 21.4 percent. Those dropouts have about the same unemployment rate as black college graduates, who suffer 16.5 percent unemployment.

Given these findings, the Congress has an obligation to uphold affirmative action laws, and demand that they be implemented. For this reason, the Department of Education conferees have taken the appropriate step at this juncture. They have decided to allow the department to conduct its civil rights enforcement mandates without exception, letting existing law prevail as it relates to affirmative action.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA).

(Mr. FUQUA asked and was given permission to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, I might point out that those critics of the new Department who have maintained that it is going to lead to Federal control and domination of any new programs or providing for expanded Federal involvement.

The importance of education is often overshadowed within Health, Education, and Welfare and we need to recognize, nationally, the tremendous importance of education. The simplified organizational structure will permit local and State school officials, Congress, and the public to recognize who is responsible for particular programs. As it stands now, it is far too easy for someone to "pass the buck" within HEW so that we never know who made the final decision affecting an educational program.

Mr. Speaker, all of the Members are, at this point, aware of the particulars of the programs which will comprise the Department of Education. The question is simply one of whether or not we will streamline Federal programs and bring some measure of efficiency to federally supported education projects or if we will continue to permit education to stagnate in the bog which is HEW.

It is my opinion that education for our young people deserves much greater attention than it has received at the national level and we owe it to the future of education in this country to take the "E" out of HEW and let it stand alone.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR).

(Mr. BONIOR of Michigan asked and was given permision to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, I rise in strong suport of the that opportunity rather than ignore it. We owe it to the taxpayers. We owe it to our local educators. And we owe it to our children.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

(Mr. HAGEDORN asked and was given permission to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, one of the principal goals that I have as a Member of Congress is to try to decrease that amount of Federal control over the lives and activities of Americans. Since our Nation was first started, certain matters have been the chief responsibility of citizens in their own community or State. Education has been one of these matters and if anything is needed, it is less Federal control, not more. Therefore, I must oppose this bill to create a separate Federal Department of Education.

If this legislation is passed, those who vote for this bill and the President by signing it will be promoting more Federal control over education and will be establishing a Govenment agency that will mean a decline in the influence of local, community and State interests in the educational welfare of the children of our Nation. Regardless of any comments in the conference report, in the CONGRESSIONAL RECORD or anywhere else, mere statements of congressional intent will not prevent those who run the new education are sadly misled. Clearly, throughout the whole bill and the report, it is very evident that local and State control remains.

While it obviously does not contain every provision approved by this House, including several provisions I supported during floor consideration, I believe it does represent a true compromise with the Senate and is worthy of our vote and support.

During the conference committee meeting, we were faced with several difficult decisions. The resolution of the major differences with the Senate were not easy to work out but we did our best to uphold the spirit of the House-passed version and, while there have been language differences in some instances, the spirit remains as strong as ever.

Those critics of the new Department who maintain that it will lead to Federal domination of education are sadly misled. Clearly, throughout this legislation, we have stated time and time again our commitment to retaining local and State control over the education decisionmaking processes.

All this bill does is take a myrid of Federal programs, organize them in a comprehensible way and provide us with a Cabinet-level department which is needed to provide direction for Federal education programs. That point cannot be emphasized too much—we are consolidating and reorganizing only those programs already run by the Federal Government or providing Federal funds for local and State school systems.

This is not a new authorization or appropriations bill. We are not initiating conference report.

To vote against this legislation because the conferees have not included everything that was in the House-passed version, would be to pass up an opportunity to make tremendous improvements in the way Federal education programs are administered.

The conferees have retained our provision that guarantees local control of education, and this seems to be the biggest single objection to a separate department. I heartily applaud the inclusion of "the Intergovernmental Advisory Committee on Education" which will serve to coordinate the efforts of the several levels of Government involved in the education of our children.

By processing regulations faster, by eliminating layer upon layer of bureaucracy and redtape, by eliminating at least 500 positions by the end of the first fiscal year after the act becomes effective, and by bringing these Federal education programs under one roof, we are making our Federal support services more available to serve local needs. This is the way it should be. Can you imagine being employed by a local school system and trying to deal with regulations issued by 160 different Federal programs, which are flung far and wide across the Federal landscape?

One cannot object to this bill by claiming that it creates bureaucracy because it does not. We have the opportunity to put into effect a mechanism that will, first, save the taxpayers at least $20 million annually; second, will cut costly and frustrating redtape; and third, will give education a deserved recognition by the executive branch. I propose that we take Department from encroaching into local and State educational affairs.

The principal reason why this bill has been promoted so heavily by the Carter White House is because of a campaign promise made to the National Education Association in exchange for badly needed campaign help in 1976. The President is faced with the need for secure and guaranteed union help in his reelection bid so he desperately wants the help of NEA once again. Without overwhelming efforts by NEA, this bill never would have even been reported from the Government Operations Committee. We certainly do not need the new department and we definitely do not want it being controlled and run by NEA and other groups that claim to represent education. The welfare and future of our children depend on adequate and appropriate programs on the local and State level and they must not be allowed to become the political, social, and cultural pawns in a chess game of power played out of Washington.

One of the arguments used by supporters is that the legislation's wording has prohibited increased Federal control over education. Past experience should be sufficient evidence that this is not going to be enough to stop any increased power that the new Department of Education officials want to exert. The Federal bureaucracy has time and time again gone beyond congressional mandates, recommendations, and stated intent in other bills so anyone who believes the legislative mandate in this bill will prevent such an increase in power should be made to account for this delusion once the power grab starts.

The conference committee only called for the elimination of 500 overhead positions, 300 less than the position taken by the House. The House-passed cap of 18,000 Department employees also was removed.

Therefore, the original bill that passed the House by only four votes has been gutted of its amendments by the conference committee. This is easy to understand when one looks at the Members that the congressional leadership placed on this conference committee. The makeup of the conference committee was heavily weighted in favor of the administration position so any amendments designed to cut down on the power of the department received little or no consideration in conference. What we are left with and what we will be voting on today is a piece of legislation that will be almost exactly what the administration, the NEA and congressional leaders want—a bill that will cause greater Federal control over the education of our Nation's children and will create a department that will become the power plaything of those who are more interested in their professional careers and power struggles than in the educational needs of our youth.

I cannot in good conscience support any bill of this type that will cause even more damage than has already been done by the present Federal bureaucracy involved with education. The power to manage is the power to control. With more highly paid bureaucrats being required to manage the new department, at them and wink ahead of time so they would know what is going to happen. That would say to them, "I don't really mean it. You know it is all in fun."

The only thing missing today is the wink.

We have two types of voters here that the "rubes" out there are gonig to be watching. First, we have those who voted against the conference report the last time, with all the improving amendments we had added in the House. If they could possibly vote for this now, they are going to be asked, "What in the world did your vote mean in the first place? Who were you kidding then?"

The second group will be those who voted for it because these many amendments were in it. They rationalised that we had cleaned it up pretty well. Now they are all taken out. Are they going to be able to capitulate and all of a sudden vote for this monstrosity? Are they going to wink at the taxpayer? Are they going to wink at the American people and say, "The earlier votes were for you, but this vote is for the bureaucracy?" Will they say, "We gave one vote to our constituency and one vote to the bureaucrats?" I think the votes will see through this charade.

□ 1330

As always, there are the people and there are the organized lobbies. The organized lobbies are out to get the votes today. The rubes got the votes when it went through the House, because that is when it was a good show. "Oh, vote for and the lobbyists, or the American people.

Once again the House has caved in to pressure from the Senate and from special interests to come up with a conference report that has little if any resemblance to what this Chamber passed in July. By overwhelming votes this House added a number of major provisions to the House version that established needed safeguards against uncontrolled Government regulation over education. The conferees rejected every one of these necessary safeguards with a minimum of debate.

It is incredible that such a landmark piece of legislation would so totally disregard the input of one House of Congress. The intention of the conferees is clear. They have bowed to the powerful education lobbies to create a vehicle for the nationalization of this Nation's education systems. In looking over the conference version of the bill there is not one provision to hinder the wholesale usurpation of local control over education.

On the matters of school prayer, forced busing, abortion, quotas, and regulatory reform, the House version was just written off. This indicates, at least to me, that the days of the neighborhood school and parental rights over their children's education are numbered. It may take 10 years, maybe more, but if this conference report is adopted there will come a day when some faceless bureaucrat in Washington has more say over how a child will be educated than that child's own parents. This bill is the there will be a greater desire on their part to increase their control over educational matters in order to justify their existence. Without adequate demonstration of control, their $50,000 jobs might be in jeopardy. Rather than spend money on their salaries and their schemes for spending Federal money, more emphasis should be place on getting Federal dollars down to the State and local level and to leaving the use of these funds to the discretion of local school districts.

Time and time again, it has been shown that local communities know what is best for their particular location. The State of Minnesota has an educational system second to none in the Nation and we do not want, need, desire or look forward to having the Federal Government promulgate more and more regulations that could only serve to lower the high standards that our State is so proud of promoting. Rather than being forced to go along with what the Federal Department of Education feels is best for the Nation, we would rather be left alone and have others look to us for a sterling example of how an educational system should be operated.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Ashbrook).

(Mr. ASHBROOK asked and was given permission to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I think we know that what we are doing here is playing out a real charade. The only thing that is missing is the wink.

In the old days, when they were going to take the "rubes," they would look *that slate is being wiped clear today. The* all of these amendments for local control." It was great for the Record but conference report, if adopted, will assure Federal control.

I was there in 1965 when all of these professions were made that there would be no intrusion of the Federal Government into local school districts. If the Members believe there will be no intrusion in the local school district as a result of consolidating power in the hands of bureaucrats whose only desire is to fasten more control over the American people, then you may well believe in the tooth fairy, too.

Oh, how we listened to that "Oh, there will be no control."

We asked, "What's this?" When pointing out the time bombs which were planted in that 1965 landmark Federal aid bill. "Well, that is a criteria." We would be told.

"What is the difference between control and criteria?"

"Well, we have to set up criteria."

We used to ask Mr. Celebreeze, who was then Secretary of HEW, "What does this mean? You said there would be no controls."

"Well, that is a guideline."

"What is a guideline?"

"Well, we set up certain guidelines to spend the money. It is no control, mind you; just guidelines, just criteria."

Yes, we are playing to two audiences today, one, the American people, the taxpayers, the other, the organized lobbyists and the bureaucrats.

I think the people will be interested to know who you vote for, the bureaucrats blueprint for Federal tyranny.

Many of us have followed this legislation since the Government Operations Committee began consideration of the bill back in 1977. Throughout the debate of this issue in the House I have heard two opposite characterizations of this new Department. One set of selling points state that the new Department is a modest proposal to streamline the vast array of education programs and will have no effect on local control of education, in fact, the argument is that it will strengthen local control. The other set of selling points is quite different. It says that the new Department is a major step toward giving education a greater prominence in the Federal Government. This line of support expresses the need for a powerful and centralized Department that can move toward expanding the role of the Government in education in order to achieve any number of newly created social goals.

There is only one Department authorized in this bill. There cannot be both a minor administrative change and a major policy shift embodied here. Unless I am mistaken, I think there has been a highly successful attempt to fog the issue enough to allow a coalition to squeak this monstrosity through amidst the confusion. I oppose this ploy. The education of this Nation's children is far too important to make policy this way.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. Chappell).

(Mr. CHAPPELL asked and was given permission to revise and extend his remarks.)

Mr. CHAPPELL. Mr. Speaker, I have been concerned about this legislation, about what power the Department might have with reference to the curriculum for the overseas schools, and I rise to ask of the chairman if it is the intent of this legislation to put the overseas schools, insofar as curriculum, on exactly the same basis as our domestic schools.

Mr. BROOKS. If the gentleman will yield, that is our intention.

Mr. CHAPPELL. I have a commitment from the President that this is his intent in the legislation, that those schools, insofar as curriculum is concerned, will be exactly on the same basis as that of the domestic, and I read this portion of his letter which would indicate his intention:

> We believe that the principle of local control of curriculum and other affairs should apply to overseas schools just as to schools in this country. The new department will work to strengthen, and will in no way seek to weaken this basic principle for all schools, overseas and domestic.

Do I understand, then, very clearly from the chairman, that the intent of this legislation is to in no wise give to this department the authority to set the curriculum, but that it will be done, in essence, by the equivalent of local boards overseas insofar as those schools are concerned?

Mr. BROOKS. That is may understanding.

Mr. CHAPPELL. And it is the gentleman's intent?

Mr. BROOKS. It is my intent.

Mr. HORTON. Mr. Speaker, I yield 1

Simply put, a new Cabinet Department of Education in the Federal Government will grow and grow, cost and cost, and dictate and dictate to school authorities.

Let me remind the Members that this bill has twice barely survived defeat on this side of the Capitol. It was reported out of the Government Operations Committee by only one vote and it passed the House initially by a scant four votes.

For those of us like myself who sit on the Government Operations Committee and have concerned ourselves with this legislation from the start, it has been a long, hard fought—and, regrettably, sometimes bitter—battle. I have found myself on the other side from my chairman—and esteemed good friend for over 26 years—the gentleman from Texas (Mr. BROOKS) as well as some other members of the committee with whom I have worked closely and harmoniously for a long time. Basically, however, we have disagreed agreeably.

I say emphatically that I hope no matter how the final vote on this legislation goes, our committee will heal whatever wounds there are and go on about our legislative business with the high degree of cooperation which has marked the overwhelming majority of our deliberations through the years.

Getting back to the matter immediately at hand, I have opposed this legislation at every step of the way in this Congress—in committee and on the floor. Time and further study of the issue since the House passed its version of the bill have not caused me to modify

does not have a vested special interest in this legislation coming to me and asking me to support it.

For weeks last spring while this bill was before the Government Operations Committee, the lobbyists were lining up at my office door to see me and were sending in mail and position papers by the handful. What I heard and read mostly were key buzzwords designed to convince me to vote for the bill—words of art like "streamline," "consolidate," "coordinate," "efficiency," "manageable," "accountable," "merge," and so forth.

In this regard, it occurs to me that the education of our children is in a special program category all by itself. Those terms simply ought not apply to education in the same way they apply to other categories of Federal programs.

The difference is that in most Federal aid programs, other than in the education field, we are dealing with adults as the chief beneficiaries. We can provide Government loans or grants or benefits for adults, but—and this is the important thing—the adults themselves take actions personally which are among the final steps in the chain. For example, they apply for their insured home loans. They redeem their food stamps. They make applications for municipal water projects. They see the minimum wage reflected in their earnings. They seek out Government-supported health care.

Education, on the other hand, is vastly different. We are dealing for the most part with children or young adults who minute to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, we have heard a great deal of discussion on how we are not going to have more Federal involvement, and during the debate I had a simple amendment that would insure that we would not have more Federeal involvement. It placed a reasonable cap on the number of employees that the Department of Education could have.

This passed by 263 to 158. It was a fairly solid vote; 18,000 employees would be allowed to go to the Department of Education.

I realize there was a lot of pressure on the Senate side. Unfortunately, this amendment was gutted, and there is no cap, nor a reasonable limitation on the amount of employees. So all of this rhetoric that we are hearing about of no further Federal control over education is simply hogwash. It is not true, and if it had been true we would have kept a reasonable cap on the number of limitations.

Mr. Speaker, I hope that we will vote down this conference report.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. FOUNTAIN).

(Mr. FOUNTAIN asked and was given permission to revise and extend his remarks.)

Mr. FOUNTAIN. Mr. Speaker, I rise in opposition to this conference report and urge my colleagues to join me in rejecting what I consider to be one of the most ill-advised and blatantly special interest pieces of legislation to have come before the House during my 14 years here, my views in strong opposition to it.

As public schools have reopened around the country this fall, more concerns and fears have been expressed than ever before about teacher strikes, about violence in the schools, about functional illiteracy, about declining test scores, and about wise and efficient use of tax dollars for education. No one can point to one factor and say it alone is the reason for all the troubles afflicting public education.

However, it appears that as Federal involvement in all areas of education has increased dramatically over the past several years, the overall quality of public education has decreased concurrently. If it were possible to quantify and plot out all the many complicated variables in the equation, we just might find a verifiable relationship there. That is something we all should think about as we continue to consider this legislation.

While I have always supported and will continue to support our valuable supplementary Federal aid to education programs, I fear that passage of this legislation may well lead to ultimate Federal control of public education. The quality of education itself will continue to suffer as more and more educational policy is dictated by bureaucrats in Washington who answer primarily to the special interest groups who put them there and keep them there.

During floor debate on this bill in July, I said that there was not one single provision in it which would benefit students—the only legitimate consumers of education in our country. I cannot recall a single student or parent who do not yet possess the maturity or the judgment to seek out things on their own. The bottom line is that education must be provided, not provided for.

When we provide something for adults, those eligible can freely choose whether to seek or accept whatever is being offered. However, most students, particularly those at an early age, do not have the discretion to make reasoned and rational choices.

Instead, their education must be provided. Otherwise, we are left with a generation of undereducated citizens. Regrettably, human instincts do not generally lead people to educate themselves fully.

It is a little like the old adage that you can lead a horse to water but you cannot make it drink. We can set up Government programs, we can publicize them and lead people to them, but we cannot make people take or accept them.

In education, we have no choice if we are to have an educated citizenry. We have to educate our children affirmatively, because for the most part they will not do it by themselves for themselves. We have to educate through persuasion and with patience. We have to guide our children, lead them, and direct them to the vast and unchartered worlds of knowledge and understanding. And we have to remember that people learn better when they are being or have been properly educated first.

In order to educate properly, we need to maintain diversity in our approaches. We need to keep decisionmaking at the local level and in the classrooms where our educators can make professional decisions which take into account the individual and special needs of each and every child in each and every classroom.

If our education aid programs were like other Federal programs in which we crank out benefits and eligibility information to any and all who want to apply and who meet the program criteria, we could stand to have more formal consolidation and merger and coordination in the delivery of services.

In education, however, we do not need or want machine-like efficiency or standardized objective criteria for instruction. In education, we deal with minds. We deal in large part with subjective influences which can quickly and easily turn a child on to learning—or turn him off, perhaps permanently. We deal with techniques of instruction which are best decided on an individual and decentralized basis by teachers and other local officials. In other words, doing to our education programs what the proponents of this legislation urge—coordinate, consolidate, merge, and so forth—could well be in fact harmful. True, passage of this legislation would give the National Education Association and other special interest groups a great deal more power and influences in electoral politics, but I doubt that many Members of this body are that beholden.

Mr. Speaker, in my district in North Carolina, and I am sure around the Nation as well, there are countless numbers of teachers who consider it their God-given purpose in life to teach and mold young minds. They want to teach resounding vote of confidence by defeating this legislation.

If we adopt this conference report, I am satisfied that in the not-too-distant future, many of you who vote for it will say to yourselves: "Why did I do it? Why did I do it? I knew better, or I should have known better."

Mr. Speaker, I want to bring to the attention of the Members an article from Reader's Digest, published in November 1978, and entitled "The NEA: A Washington Lobby Run Rampant." The initial point in the article is "The drive for power, nationwide, by this huge and aggressive teachers union provides a classic study of how special-interest politics can overwhelm the public interest."

Let me read just a few excerpts:

> By the early '70s, a "Young Turk" faction had gained control of the NEA. They wrote a new constitution compelling the payment of national dues, drove out most of the administrators who were also members, dispensed with the trappings of a "professional organization" and launched into full-scale unionism . . . A succession of NEA presidents have proclaimed its aims:
>
> "We are the biggest potential political striking force in this country," said Catharine Barrett in 1972. "And we are determined to control the direction of education.
>
> "We must reorder Congressional priorities by reordering Congress," Helen Wise told NEA political fund-raisers in 1974. "We must defeat those who oppose our goals."
>
> Promised current NEA president, John Ryor, "We will become the foremost political power in the nation."

These are direct statements, my col-

> the National Education Association, as he addressed the 1977 national convention of his 1.8-million-member union.
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> And a well-earned A it was. NEA sent 265 members to the 1976 Democratic National Convention, more than any other organization in the nation. That November, NEA endorsees won in 291 of 349 House and Senate contests. For the first tome, NEA endorsed a Presidential candidate, Jimmy Carter; and after his victory, President-elect Carter made a prompt personal thank-you call to Ryor. Carter's campaign manager, Hamilton Jordan, said enthusiastically, "The massive support from teachers was crucial to our winning We turned to the NEA for help and it delivered nationwide."
>
> Now President Carter has delivered for the NEA. Last spring, he formally asked Congress to create a separate Department of Education—a cherished NEA goal—and raised his overall budget so as to make available a record $12.9 billion for federal aid to education, a 46-percent increase since he came into office.
>
> Yet the President appears to understand the problem. "The fight against inflation," he said in a recent speech, "becomes nearly impossible when special-interest lobbyists are successful." Well, certainly the NEA lobbyists were successful, and the political payoff they earned dramatically demonstrates why President Carter has now admitted he will not fulfill his promise to balance the federal budget by 1980. And why, instead, deficits and inflation are soaring, imposing the equivalent of a ten-percent tax on every dollar American families spend this year. It also demonstrates why every American voter needs to bone up on "advanced politics" as practiced by the NEA.
>
> Warns Rep. John Ashbrook (R., Ohio), a veteran member of the House Education and Labor Committee: "An integral part of the NEA design is to siphon ever more control

the liberal arts, language, science, mathematics, fine arts, and the other areas of instruction to young people just beginning life. They want to create knowledge and awareness. Their main reward is in seeing accomplishment, mastery, and success. To be sure, their paychecks purchase the material things necessary to sustain life and health. But their most important payoff comes in knowing that they have done their job well—that they have satisfied their calling.

The proponents of this legislation have argued that there are adequate safeguards in it to insure local control of educational policymaking—in the form of findings, purposes, legislative history, and so on. However, those of us who have had some experience dealing with Washington bureaucrats know that statements of findings and purposes, as well as legislative history, are like a lot of things: they sound good and probably read even better, but together with pocket change they will usually buy you a cup of coffee at the corner drugstore and little else.

I would hope that what a majority of the Members of this body want is to continue Federal supplementary aid to education in a limited and responsible form—but to do so in a way carefully calculated to insure the best possible quality education for all our children. We do not need a separate, Cabinet-level Department of Education in the Federal Government. We do not need the mechanism for Federal dictation and control of education which is embodied in the conference report before us today. Let us give our State and local education officials and teachers—and our students—a leagues, from those who are the prime force behind this legislation.

Here is a paragraph containing a statement attributed to Terry Herndon, then executive director of NEA:

> What is NEA's ultimate goal? Herndon is blunt: "To tap the legal, political and economic powers of the U.S. Congress. We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to reorder the priorities of the United States of America."

Let me give the Members one other statement—from the writer of the article itself. It is a good conclusion:

> If the alliance now building among Capital Hill politicians, the White House and the NEA's power brokers continues to grow, decisions for America's teachers—and for pupils, parents and taxpayers, too—will more than ever be made by a permanent Potomac power elite. Which would deliver a mortal blow to our traditional system of grassroots control of education.

Mr. Speaker, I must say that many of the statements and conclusions in the Reader's Digest article do not apply to the teachers of my district and State. On the whole and with very few exceptions, North Carolina's educators are responsible professionals whose primary interest is the welfare of their students, not partisan politics. However, I want to include the entire article at this point so that my colleagues and other interested people might have the benefit of the facts and views therein:

THE NEA: A WASHINGTON LOBBY RUN RAMPANT

(BY EUGENE H. METHVIN)

"Teachers in 1976 earned an A in advanced politics!" exclaimed John Ryor, president of

of public education from the grass roots to Washington, closer to its own powerful lobbying influence, farther from the parents and taxpayers who elect the school boards and pay the bills."

YOUNG TURKS

Fifteen years ago, the NEA was chiefly a staid coffee-and-doughnuts professional association. Most state and local affiliates did not require members to pay dues. "Strike" was generally a dirty word. But then the American Federation of Teachers (AFT) mounted a militant challenge, and teacher walkouts erupted across the nation. In 1968, afraid it might lose the whole teaching profession to the AFT, the NEA backed its first full-fledged strike.

By the early '70s, a "Young Turk" faction had gained control of the NEA. They wrote a new constitution compelling the payment of national dues, drove out most of the administrators who were also members, dispensed with the trappings of a "professional organization" and launched into full-scale unionism. Using militant strike action, the new NEA has won collective bargaining for 5000 of its 12,000 locals, and leaped headlong into national political campaigns. A succession of NEA presidents have proclaimed its aim:

"We are the biggest potential political striking force in this country," said Catherine Barrett in 1972. "And we are determined to control the direction of education."

"We must reorder Congressional priorities by reordering Congress," Helen Wise told NEA political fund-raisers in 1974. "We must defeat those who oppose our goals."

Promised current NEA president, John Ryor, "We will become the foremost political power in the nation.,

At NEA headquarters, five blocks from the White House, Ryor and executive director Terry Herndon, a 39-year-old former teacher, now lead 1.8 million of the nation's 2.2 million public-school teachers. Already they outnumber all other public-employee unions by far, and among all unions trail only the No. 1 Teamsters. With its affiliates, NEA has a combined annual budget of $250 million, more than ten times that of the AFL-CIO. And Ryor and Herndon oversee 1436 professional field organizers, who kept the political and legislative machinery well-oiled.

TEACHER POWER

When Herndon became NEA's executive director in 1972, he set about building a huge political machine. One project was to beef up the newly formed Coalition of American Public Employees (CAPE), an umbrella group including the American Federation of State, County and Municipal Employes (AFL-CIO) and several other public-employee unions. Financed largely by NEA, CAPE has organized chapters in 31 states to promote political and legal action. And, come election time, CAPE orchestrates the march of its unions' four million members into political work.

Campaign consultant Matt Reese, hired to help NEA develop its "teacher clout," marveled at the potential: "Teachers are the ideal political organization. They're in *every* precinct." Indeed, NEA averages 4000 members in each Congressional district—and many elections turn on smaller margins than that.

Since 1972, NEA professionals have run an estimated 30,000 teachers through "political-action workshops," in some cases giving them graduate-study credit for taking the program. The union offers political candidates privileged access to these trained battalions. In every state, the NEA has set up political-action committees (PACs). At election time, screening committees quiz candidates, and once PAC endorses a candidate, its chairman uses the NEA "talent-inventory" files to provide campaign man-

NEA's drive for a Cabinet education department is part of this reordering. As a separate, Executive Branch pipeline into the budget process, such a department would help to achieve the aim of swelling the federal share of the nation's education spending to a third of the total. NEA's campaign-aid dispensers would also be better able to influence state and local officials.

For example, in 1976 then-Senator Walter Mondale (D., Minn.)[1] and Sen. Alan Cranston (D., Calif.) sponsored an obscure, complex provision that now appears as part of a 161-page law called the Education Amendments of 1976. This provision, largely written by NEA, authorized a new three-year-grant program of up to $203 million for "teacher centers" that would take responsibility for local in-service teacher training and curriculum development. The hooker: Each center had to be run by a "policy board" manned by a majority of teachers (meaning, almost everywhere, NEA members). Neither Senate nor House seems to have held a single hearing to find out whether such centers actually need federal financing—or why Washington should try to induce elected school boards to turn over their own statutory duties to non-elected union officials. Crowed the NEA: "For the first time, federal law has cut teachers into policymaking."

DEMOGRAPHIC DYNAMITE

Fueling the NEA's turn to political militancy are radical changes in the composition and prospects of the nation''s 2.2 million public-school teachers. In the 15 years between 1961 and 1976, there were relatively few senior teachers from the low-birth years of the 1930s to replace retirees. The gap was eventually filled by young teachers born in the postwar baby boom. But just as these eager fledglings began to pour out of college, school enrollments dropped in response to

move a few dozen key Capitol Hill committeemen, whose election campaigns it has backed, than it can move 50 state legislatures and 16,000 school boards. But is this really in the best interests of teachers?

In his 1976 nomination-acceptance speech, President Carter declared, "Too many have had to suffer at the hands of a political and economic elite who have shaped decisions and never had to account for mistakes." If the alliance now building among Capitol Hill politicians, the White House and the NEA's power brokers continues to grow, decisions for America's teachers—and for pupils, parents and taxpayers, too—will more than ever be made by a permanent Potomac power elite. Which would deliver a mortal blow to our traditional system of grass-roots control of education.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TREEN).

(Mr. TREEN asked and was given permission to revise and extend his remarks.)

Mr. TREEN. Mr. Speaker, I rise in opposition to this legislation.

I am opposed to the creation of a separate Department of Education, not because I am opposed to improving public education in America, but precisely because I want to see vast improvements in the quality of education. Creating a new Cabinet department will lead to greater and greater control of education by the Federal Government. Education is the responsibility of local and State governments. Keeping education administration as close to home as possible insures a greater degree of parental influence agers with volunteers for every imaginable task, from stuffing envelopes and manning telephone banks to chauffeuring voters to the polls. "We can elect friends of education and un-elect foes," boasts Ryor.

Is he right? Sen. Claiborne Pell (D., R.I.), chairman of the Senate education, arts and humanities subcommittee, candidly admits that he owes his 1972 re-election to "teacher power": "Before they arrived, I was a two-to-one underdog. Then an army of teachers began knocking on thousands of doors and making thousands of phone calls, and I won by 33,000 votes. You can be sure," he concludes, "that I will continue to fight in Washington for a better deal for education."

A GOOD THING

The teachers' special capacity for organising and motivating people is awesome—and there is money, too. In 1976, NEA-PAC and the state PAC's funneled an estimated $3 million into federal, state and local campaign coffers, with notable effect. For example, the Michigan Education Association helped elect three-fourths of its chosen candidates for the House by pouring $138,000 into their campaigns—$36,000 more than the giant United Auto Workers, long the biggest powerhouse in Lansing.

Writing in the NEA's official journal, the *Reporter*, Ryor has urged every teacher to contribute to the 1978 Congressional campaign: "We've got a good thing going politically. Let's keep it going." By August, NEA-PAC had raised $536,000 to ladle out before Election Day. And NEA's state and local PACs have raised an estimated $2.5 million for their own war chests.

CALLING THE TUNE

What is NEA's ultimate goal? Herndon is blunt: "To tap the legal, political and economic powers of the U.S. Congress. We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to re-order the priorities of the United States of America."

post-1961 birth declines.

This was a sure-fire demographic recipe for explosion. For several years, school boards avoided reductions. But in 1975–76 they issued layoff notices to 61,000 teachers. Some were rescinded as the boards scraped up additional funds, but the notices had sent a chill through all teachers. That school year, strikes hit a record 203, most of them led by the NEA.

Although the current schol year began with 20,000 fewer teachers than last year, public schools now employ 177,000 *more* teachers than in 1969–70, for 2.7 million *fewer* pupils. Says a National Institute of Education school-finance expert: "For years, policy-makers have been told, 'More kids cost more money.' Now they're asking, 'Why don't fewer kids cost *less* money?' "

To counter this pressure, the NEA is demanding that class size be limited to 15 pupils (the current mean is 25). This move would require hiring hundreds of thousands of additional teachers. NEA also wants a national $15,000-a-year minimum salary for starting teachers with bachelor's degrees, rising to $34,500 in ten years for those with master's degrees.

"Teachers are more dependent than ever on their ability to concentrate power on the federal decisionmakers," proclaims Herndon. "One thing no school board can manufacture is money." But Congress can and does manufacture money, especially when surrounded by special pleaders with political muscle. The legislators can cry "aye" on appropriations "for education," without voting for taxes to pay the bill; those "taxes" then come via inflation.

POWER ELITE

Americans—and teachers above all—should look carefully before rushing headlong to the Pomotac power brokers for educational salvation. Of course, the NEA can more easily and helps preserve diversity of educational programs, both highly desirable objectives.

Can anyone plausibly deny that a Federal Department of Education, in the pattern of all Federal agencies, would grow into a huge and monstrous bureaucracy? We have the evidence provided by our Nation's entire history. Even more convincing, the conference committee removed certain provisions added by the House designed to try to protect the principle of local control.

Furthermore, inasmuch as the Federal Government is the least efficient provider of services, there is certain to be monumental waste in this new bureaucracy.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to the so-called Department of Education bill. All these arguments about "no Federal control" is so much Alice-in-wonderland dreaming. We were told the same thing about the Department of Energy and OSHA. You can list agency after agency where we have been promised firmly there would be no Federal control. It turns out exactly the opposite way. If you like the Department of Energy, you will just love this new Department of Education. I hope those Members who have complained about those overregulations, unfair regulations, interference by the Federal Government, after voting for this redtape bureaucracy for this called the Department of Education will well remember this day for if such an agency is created, they must bear the burden of knowing they are the ones who help build the

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[1] Mondale's brother is an NEA state president turned full-time union organizer.

monster of which many Members warned. You will have every education bureaucrat in Washington looking down on your school districts, and you will be back here complaining about the rules and regulations that are made possible under this legislation.

Mr. Speaker, I urge a "no" vote.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I rise in support of the conference report.

As one of the original sponsors of the Department of Education bill, I stand here today to say that I think the conference report and the work done by the conferees deserves our support.

Why do I say that? First of all, for too long in this country education has not received the recognition at the Federal level that it deserves, and I think recognition is extremely important.

Second, the whole question of structure. We need a clean line of responsibility, we need a clean line of accountability, we need a clean line as far as budget is concerned; and we do not have it under the current arrangement with HEW.

Third, it would make HEW more manageable. Under the current set-up, we have health, we have welfare, and education really does not have a voice or an element of responsibility in the structure as it now exists.

Fourth, this is the approach at the State level. It has worked at the State level, it has worked at the local level, in the House and Senate version of the Department of Education bills, have decided to drop all of the anticivil rights measures that were adopted by the House. These amendments prohibiting abortion, busing, and encouraging school prayer are not appropriate additions to a reorganization bill. I am especially pleased that the "antiaffirmative" language has been removed. I believe the original language, offered by Mr. WALKER, was particularly dangerous and inappropriate.

Affirmative action is merely an effort to end discrimination. Mr. WALKER, himself, has repeatedly stated he is not an opponent of affirmative action. Affirmative action programs include many activities which are not controversial. Activities such as notifying minority and women's groups about job openings, advertising such openings, rather than relying on word-of-mouth notification, and developing recruiting procedures aimed at women and minorities, as well as other qualified applicants, is desirable and necessary to an effective affirmative action program.

Unfortunately, most of the debate that Congress engages in focuses on numbers and quotas. This kind of debate has a way of disguising the real need and intent of affirmative action. I am not suggesting that Congress should not be concerned about the appearance or tone of sex or race-conscious employment and admissions programs that include the controversial concept of numerical goals and timetables. We all know that quota

Mr. DICKINSON. Mr. Speaker, I rise to express my strong opposition to the creation of the Federal Department of Education, the second new super Federal Bureau to be proposed in as many years.

We already have one new DOE, the Department of Energy, and in its almost 2 years of existence—with 20,000 employees and having already spent $20 billion—that new Department has not produced 1 pint of gasoline or 1 new kilowatt of electrical power. All the Energy Department has done is add confusion and expense to an already disastrous energy crisis.

My belief is that the proposed new DOE—the Department of Education—will do the same for education that the new Energy Department has done for energy—more confusion, costs and lost freedom and control by the States and localities.

Education should be a local matter, however, once the new Department is in existence and begins to dole out dollars to those who go along with what the bureaucrats want, or withhold money from those who refuse, we will witness the demise of the American concept of local control and direction of our children.

With this new Department you will see the forced conformity of public education throughout America—yes; we are creating for ourselves and our people, a czar of Education. This czar will watch his Department grow and expand and, like his predecessor at the Department of Energy, will find his staff spending more and, clearly, it will work at the Federal level.

Mr. Speaker, from the point of view of structure, from the point of view of accountability, from the point of view of management, from the point of view of the recognition critically necessary for education at the Federal level, this conference report deserves our full support.

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Mr. BROOKS. Mr. Speaker, I yield myself one-half minute.

I would say in response to an inquiry from my good friend, the gentleman from California (Mr. Roybal) about bilingual education and minorities, this conference creates an Office of Bilingual Education and Minority Languages Affairs. There is no question about it. It is created by this conference, despite some misstatements by some people. It cannot be abolished.

Page 19 of the report deals with the abolition of organizational entities established by this act. You cannot abolish it. It is going to be in there. It is going to stay. I wanted my friend from California (Mr. Roybal), and those like myself who are interested in bilingual education opportunities, to know that.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Edwards).

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I am pleased that the conferees, in working out the differences

systems have been used historically to keep people out. Rigid quota systems are not, therefore, a desirable part of affirmative action. Goals, on the other hand, are targets for inclusion of people previously excluded. Goals are an attempt to estimate what the employer's work force would look like if there was no illegal discrimination based on race or sex. Attempts to achieve this end should not be labelled as reverse discrimination or a relaxation of admission criteria, rather, they should be viewed as action necessary to remedy past discriminatory practices.

In the few cases where insensitive employers and administrators have implemented poorly designed affirmative action programs, the results have fostered misunderstanding and hostility. The congressional response to such incompetence and poor administration should not be the destruction of affirmative action. That would not be an appropriate solution.

For this reason, the Department of Education conferees have taken the appropriate step at this juncture, and they should be congratulated. They have decided to allow the Department to conduct its civil rights enforcement mandates without exception, letting existing law prevail as it relates to affirmative action.

Mr. HORTON. Mr. Speaker, I yield 30 seconds to the gentleman from Alabama (Mr. Dickinson).

(Mr. DICKINSON asked and was given permission to revise and extend his remarks.)

time shuffling paper, making irrelevant policy and being courted by special interest groups and less time working to improve the quality of education in our country.

How can bureaucrats in Washington determine what is best for our children in cities and towns of Alabama or any other State in America? Bureaucrats do not have to worry about being held accountable to the people for their actions. The fact that 75 percent of the people in this country favor school prayer will be meaningless to them, and I doubt that many of them will have ever spent anytime observing our educational system today or will ever care to do so.

Right now, in many eastern European countries, every child is studying the same subject from the same book—which is, of course approved by the government bureaucrats—at the same time. Is that what our founders wanted when they wrote the Constitution? This DOE, like the other one, will only be another step toward moving away from the democratic ideals our country was founded upon.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. Rudd).

(Mr. RUDD asked and was given permission to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I voted against this legislation when it first came before the House on July 11.

I will vote against the conference report today, and urge my colleagues to do so also. Even though the original bill, H.R. 2444, was, in my view, undesirable, even that version was far preferable to the recommendation of the conference with which we are confronted today.

I believe originally, as I do now, that a Federal Department of Education will inevitably encroach on the prerogatives of our Nation's local and State officials who have historically been responsible for the education of our Nation's children. This interference and control will take place despite well-intended efforts in the House-passed bill to prevent it.

Our local and State officials should not be further directed or controlled by a narrowly focused, special interest Federal education bureaucracy, far removed from the unique needs and situations facing parents, teachers, and school officials in many diverse local jurisdictions throughout the country.

One of the greatest strengths of our system of government, as envisioned by our Founding Fathers, is the freedom which it allows among the individual States to adopt policies which best address the specific needs and priorities of their own people. This is particularly true in the field of education—where needs are different from one area to another—and I hope that it will remain so.

During initial consideration of the legislation, the House wisely added several eminently helpful provisions which sought to insure that the new Department of Education, if established, would be limited in several important respects.

Unfortunately, these safeguards have been eliminated by the conference, and

Thus all of these important amendments that were passed in the House were removed during the conference with the Senate. These amendments provided for crucial safeguards against any expansion of Federal control over local education. Their deletion from the bill serves as additional reasons why the House should reject the conference report establishing a Federal Department of Education.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Speaker, I had the pleasure of working with the chairman of the Committee on Government Operations in our preparation of the bill. I strongly support the conference report and strongly urge the Members to vote in favor of the adoption of the report. And thus bring to America a stronger educational program.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, 18 years ago, President John F. Kennedy in his education message to the Congress said, "Education is the keystone in the arch of progress."

Mirabeau B. Lamar, the first President of the Republic of Texas, said, "A cultivated mind is the guardian genius of democracy."

Each week, Newsweek magazine carries

right a free public education equal to that which prince or potentate might elsewhere receive. We hoped that none would be restrained or restricted by what his or her parents had attained, nor restrained by what Government would permit, but that each individual might become the greatest and the best and the highest to which that individual could aspire. That is education. Education stands at the very center of the march of human progress in this country.

It makes sense to me that we take these functions so very vital to the lifeblood of our Nation and honor them, dignify them by the recognition of their importance in and of themselves.

Certainly I see no harm in a Department of Government devoted exclusively to the education of America's youth. It still will leave the Department of HEW the biggest in all of the Government.

I suggest to my colleagues that a department which today is expected to manage $171 billion probably has too much to try to direct efficiently. By taking this one out, and placing a ceiling on the permissible number of the new departments' employees, I think we shall have stricken a blow against the growth of bureaucracy as well.

Ordinarily I do not get excited about department structure. I have frankly never thought these changes in and of themselves to be of great significance. Organizational charts usually leave me cold. I do not believe that this change will make things either very much bet-make the legislation all the more unacceptable.

On June 11, for instance, the House voted 227 to 135 to prohibit funds from going to promote busing as a form of desegregation. This provision was a continuation of longstanding House sentiment on the issue. Yet this prohibition was totally eliminated by the conference.

The House also voted overwhelmingly, 255 to 122, on June 11 to provide that one of the purposes of the Department would be to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis. This provision was also dropped entirely in conference, despite the obvious strong sentiments of the House on the issue.

During initial consideration of the measure, the House also adopted amendments which would insure that regulations adopted by the Department of Education should not have the standing of a Federal statute. This safeguard, too, has been eliminated by the conference.

The House added two amendments to insure that the Department of Education did not become entangled in the abortion controversy. Unfortunately, these provisions have also been removed from the conference report.

A provision to insist that quotas on race and sex not be implemented by the new Department—which passed 227 to 126 on June 12 and which the House insisted upon on July 17 by 214 to 202—has been watered down to the point of nonexistence by the conference.

in its masthead the slogan, "A well-informed public is America's greatest security."

We have the same promise on no less authority than the Holy Scriptures, wherein we are told, "You shall know the truth, and the truth will make you free."

What each of these things says to us is that education and democracy are inseparably interlinked. One cannot thrive without a very liberal smattering of the other. Where education is stifled, democracy suffers. Where freedom is thwarted, there can be no true education.

I have heard education referred to here today as a special interest. I think it is quite the reverse of that. Education is the one quite general interest to this Nation of ours.

If we are to see how far we have come as a nation, we ned to pause and ponder where our founders set out to go. In at least one important respect, I think our goal as a Nation differed from that of any other society. We set out neither to enthrone the aristocracy and perpetuate it as a ruling class, nor to destroy the nobility. Rather, we set out to expand it until it could be enjoyed by the humblest of our citizens.

Unlike the French and Russian revolutions that began with the idea to install a dictatorship of the proletariat and do away with the nobility, we decided that we would create a society in which all could aspire to the aristocracy, not by dubious virtue of birth, but by the privilege of being a citizen of this land. We dreamed of a land in which the humblest child might have as a birthter or very much worse. But I do believe that education is a function of sufficient importance in our society to warrant the distinction which this move symbolizes.

Mr. BROOKS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, H. G. Wells once said:

> Human history becomes more and more a race between education and catastrophe.

I was reminded of that observation as I raced to the floor from the airport in order to vote to create a Department of Education that some of our colleagues would label a catastrophe.

Rather than consent to the criticism that creating such a department would be catastrophic, I support the conference report and urge my colleagues to vote likewise.

In this legislative era when battles to shift congressional sentiment are waged with post cards as weapons, when almost any proposal calling for changes in the status quo evokes howls of disapproval and predictions of doom, I hope we can rise above hyperbole here today and consider the obvious merits of the legislation before us.

While the specific question we must decide is whether to create the new Department of Education or not, two other fundamental and philosophical issues confront us. I speak of authority and responsibility.

Those who oppose this proposal have charged that the Federal Government has no authority to invade the domain of the local school under a Department of Education. Such arguments, Mr. Speaker, ignore the fact that almost 10 percent of all moneys spent on education are Federal dollars. Granted, in proportion to the total contribution of State and local government, our share is small. Yet, the influence we have on what occurs in [illegible]tion's schools is out of size com[illegible] our fiscal contribution.

You need only examine the impact that title I of the Elementary and Secondary Education Act has had on increasing the learning opportunities for disadvantaged children to know that the Federal role in education is important, is extensive, and is growing.

You need only to witness the barriers that are falling both figuratively and literally to our handicapped children to know that Federal laws such as the Education of All Handicapped Children Act have created significant changes in attitudes and practices toward the handicapped.

Thus, to assert that a new Department would threaten local schools by expanding the Federal presence is to ignore the already considerable Federal role in national education policy and practice.

Yet, this role has not been discharged ideally. Complaints from teachers, administrators, and school board members are numerous regarding the conflicting policy guidelines, the straitjacketing regulations, and the reams of paperwork that they are subjected to.

If we are to clear up what is increasingly becoming a mess in terms of our schools without the consent of Congress; no Department of Education itself can create new directions in American education without the consent of that same Congress.

Therefore, we, today, should shoulder our responsibility by consenting to create that Department of Education which will give American education the visibility it deserves; but at the same time, we should be made aware that, in doing so, we will bear a responsibility to oversee that Department to insure we will retain the essence of an educational system that is so uniquely American.

Mrs. FENWICK. Mr. Speaker, is there any time left on either side of the aisle?

The SPEAKER pro tempore (Mr. FOLEY). I would advise the gentlewoman from New Jersey (Mrs. FENWICK) there is no time left on the minority side. The gentleman from Texas (Mr. BROOKS) has 2½ minutes.

Mrs. FENWICK. Would the gentleman from Texas yield me 1 minute?

Mr. BROOKS. I yield 30 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I appreciate my colleague's most gracious kindness, but I would like to speak most strongly against this Department of Education. We have been told that we should watch the example of France. In France this minute, at 10 o'clock in the morning, in every third grade, every single class is at the same page in the same book because they have a centralized education system. This is the system we are against in this helping Jimmy Carter make this political payoff—just wait until this $14 billion superschoolboard gets rolling. Just wait for the superintendents of your local school districts, the principals, the parent teacher associations—just wait for the aggravation you will get from them. I can hear their complaints now: Regulations on how to help Johnny with his reading problem; guidelines on how to help Sally with her learning disability—18,000 bureaucrats in Washington are going to tell local officials 3,000 miles away how to run their schools?

This House worked its will on H.R. 2444. By large majorities we wrote into the bill language to prohibit the use of quotas, to prevent busing, to restrict abortions, to provide opportunities for voluntary school prayer, and to limit the growth of the new Department. Our conferees were dealing with a deck stacked against them. This proposal did not have my support from the time it saw the light of day, and by passing this conference report, we will be reneging on our mandate—our clear affirmation to the other body—that we want certain policies implemented if the American people are forced to swallow this $14 billion monstrosity.

My friends on the other side of the aisle—I need not explain why the President of your party is at so low an ebb in the opinion polls. He swore there would be an end to growth in Government if he was elected. His insistence on this politically motivated Department

Federal education policies, I believe quite strongly that we must clean up the mess that exists within the Federal educational establishment.

Presently, at HEW, authority for education is diffused among the Secretary of HEW, the Assistant Secretary for Education, and the Commissioner of Education. With so many chiefs, I doubt very much any one figure has the authority to put that house in order. And, where no authority exists, no responsibility is assumed. That in itself is a problem we must solve.

A step toward establishing clear authority for educational policy at the Federal level and toward making certain that those in authority are indeed responsible for their actions can be taken if we vote for this legislation.

Under a Department of Education, the Secretary of Education would be the person appointed by the President who would have the authority to make Federal education policy clear and understandable but he or she would be most responsible for any misdirections and missteps in the administration of that policy. We need this kind of management if we hope to have a chance to unravel the bureaucratic ball of string that exists at HEW.

Ultimately, Congress itself must recognize its authority to establish Federal education policies and must assume its responsibility to insure that the preeminence of local decisionmaking is preserved.

No Department of Education by itself can overtake the preserve of the local country. We have flourished with independent, variated, locally based, locally controlled education, and we do not want a great big central bureaucracy, burgeoning with expense for the public year after year.

● Mr. GOLDWATER. Mr. Speaker, I ask my colleagues in the House to take a minute to think back to the 1976 Presidential campaign, to the theme of candidate Jimmy Carter, who pledged that, if elected, he would reorganize government in Washington—he would push for limiting the Federal role in public programs—he would restore to the respective States and local jurisdictions their rightful authority to administer their own affairs.

For those of you who have not noticed, the 1980 political season is starting awfully early. No doubt it is because of this very measure we are considering right now. A 13th cabinet-level department? This is an example of scaling down the bureaucracy? This is what Jimmy Carter meant when he said he was going to shake things up in this town?

There is an excellent editorial in this morning's Wall Street Journal in which a Member of this body is quoted as saying that "the idea of an Education Department is really a bad one. But it's NEA's top priority. There are school teachers in every congressional district and most of us don't need the aggravation of taking them on."

Let me tell my unnamed colleague, whomever it may be—if you think you are going to have aggravation by not illustrates perfectly why his nomination is threatened. It is the responsibility of this House to carry out the promise of limited Government. Reject this conference report outright and let us never see anything like it again.

[From the Wall Street Journal, Sept. 27, 1979]

WHY THE CONGRESS IS PRODUCING ANOTHER DOE

(By Albert R. Hunt)

WASHINGTON.—The specter of "single-issue" politics raises images of anti-abortionists, gun lobbyists or save-the-snail-darter advocates demanding that politicians adhere to their narrow interests.

An even more vivid illustration of single-issue politics, however, is currently confronting Congress, and it involves neither raving ideologues nor fringe subjects. The issue is creation of a new Department of Education; the proponents are the nation's secondary and elementary school teachers, represented by the eminently respectable National Education Association.

And the controversy over establishing a 13th Cabinet department to administer more than $14 billion of federal programs and 18,000 employees is steeped in single-issue politics.

"The idea of an Education Department is really a bad one," admits one liberal House Democrat, who insists on anonymity. "But its NEA's top priority. There are school teachers in every congressional district and most of us simply don't need the aggravation of taking them on."

That view typifies the rationale in pushing this legislation through Congress; first, the measure passed the Senate 72 to 21 but last summer made it through the House by only four votes. This week the Senate overwhelmingly adopted the final conference committee report; with the political pressure escalating, the House is expected also to approve the report and the Education Department will become a reality.

Some educators find this regrettable. The American Federation of Teachers (a much smaller NEA rival), many school administrators and numerous university officials oppose the concept of a separate Education Department but the NEA, which expects to dominate any new department, has much more political clout than these other organizations.

The NEA started flexing those muscles in 1976 when, for the first time, it endorsed a presidential candidate: Jimmy Carter. While House political operatives believe the active assistance of school teachers was critical in states such as Ohio, which Mr. Carter carried by only 11,000 votes of more than four million cast.

Thus, from the beginning, the White House viewed the Education Department chiefly as a legitimate political payoff. Moreover, the beleaguered President undoubtedly is counting on NEA support again next year; already, the teachers' political action committee has recommended endorsing the President for re-election. Further, Carterites see possible political gains with some of the top appointments in any new department.

NEA also exercises its clout on Capitol Hill. In 1976, the association made contributions of more than $675,000 to 310 House and Senate candidates. The NEA's influence is bipartisan. Success in the House was possible with the support of 35 GOP members. The department was supported in the Senate by minority leader Howard Baker of Tennessee and even such fearless foes of new bureaucracy as conservative Republicans Jake Garn of Utah and Strom Thurmond of South Carolina.

Of course, supporters insist a strong substantive case exists for a separate Education Department. Carter Budget Director James over the past 50 years," Rep. Rosenthal complains. And he professes to be "quite surprised that an administration that came into office dedicated to reforming governmental structure and improving its efficiency and quality would have even recommended this kind of an idea."

But it's doubtful such logic will prevail. More likely, most lawmakers will stay in the good graces of the NEA and next year remind voters of their support for education. And President Carter will hope the NEA's backing will count more than any memories of his 1976 pledge to reduce the number of government agencies.

There's one risk here, though. What if the Department of Education comes anywhere close to rivaling the performance of its immediate predecessor in reaching Cabinet-level status? That's the Department of Energy.●

● Mrs. SCHROEDER. Mr. Speaker, voting against the Department of Education is a very painful thing for me to do because so many good friends are on the other side. As chair of the Civil Service Subcommittee I have been very frustrated by the fumbling way the Department of Energy has been created. We still do not have that agency together and I really question whether we should take on any other new agencies at this time. I could ramble on with these arguments but many others have made them more eloquently than I can.

There is another reason I cannot vote for the Department of Education. As a parent, the education of my children is the most important concern I have. I want it left at the local level. I do not House/Senate conferees. I should emphasize that H.R. 2444, the bill which passed the House by a vote of 210 to 206, contained a number of detrimental social policy amendments. Among those amendments was a provision introduced by Representative ROBERT WALKER to prohibit the use of "rules, regulations, standards, guidelines and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex."

The Walker amendment as originally drafted would have had a devastating impact on the separate Department's ability to carry out Federal affirmative action efforts, and went considerably further than the Court's position mandated in Regents of the University of California against Bakke or United States against Weber. For example, a major portion of the Federal civil rights enforcement scheme involves HEW's responsibility to eliminate discrimination in federally funded programs and Government contracts pursuant to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, and Executive Order 11246. The sweeping language of the original Walker proposal would have barred appropriate and legitimate approaches by the Federal Government to carry out these mandated duties specified in civil rights legislation enacted by the Congress.

For these reasons and due to the overbreadth of coverage contained in the Walker measure, the conferees wisely

McIntyre argues a new consolidated department could more "effectively manage" over 150 federal education programs. Democratic Rep. Elliott Levitas of Georgia even contends the new department "means less government and less bureaucracy."

It's also noted that most other major countries have a separate ministery of education. If the U.S. followed suit, proponents argue, it would focus much needed visibility and prominence on education. A new department "will help to get important education issues the attention which they deserve at the national level," maintains Democratic Rep. Robert Edgar of Pennsylvania.

None of this is very persuasive. Unlike other countries, the U.S. education system is predominantly local in nature. As for any significant consolidation gains, the fact is that 95 percent of the new department's budget involves programs currently within the Department of Health, Education and Welfare. The dream of less government with a new department flies in the face of NEA's stated goal to boost the federal contribution of spending for secondary and elementary education to 33 percent from 8 percent.

But the most telling criticism comes from Rep. Benjamin Rosenthal, one of few House liberals to oppose the measure. Since World War II, he says, there have been three blue-ribbon panels to study government organization: the 1949 Hoover Commission, the Heineman Commission in 1967 and Ash Commission in 1971.

The New York Democrat notes that these commissions reached several common conclusions: the number of Cabinet-level departments should be reduced, departments should be organized around broad missions and government should resist creating departments for "single-issue groups."

The proposed Education Department falls all these tests. "It runs counter to every accepted theory of administrative management

feel the President of the United States who is to protect the free world, protect the United States, quarterback our foreign policy, the currency, national health policies, welfare policies, labor and employment issues, come up with an energy policy, deal with public lands, create trade policies and on and on has time to also deal with education policies. I prefer those decisions be left to mayors, Governors and school boards. They are not quite so overloaded with issues.

I think the Federal Government should only write checks. All policy should be made and implemented locally. We are driving local schools crazy with Federal forms and all the redtape. Denver is a case in point, where schools were desegregated, then we lost our title I Federal money because they said you no longer have poverty impacted schools. The money did not follow the child. So my city got penalized for doing the right thing. Such inconsistent policies would not be tolerated in local forums yet get buried in Washington. I want decisions about my children made by local officials I can hold directly accountable. I do not want them to be able to duck and say "the Feds made us do it." No matter what anyone says, the Department of Education will not just write checks to local school boards. They will meddle in everything. I do not want that.

● Mrs. CHISHOLM. Mr. Speaker, during consideration of the conference report on the separate Department of Education, S. 210, today in the House, I want to draw my colleagues attention to a new amendment adopted by the chose to eliminate this language. This action was consistent with the conferees treatment of the other social policy amendments which were also removed in conference. To clarify the proposed Department's ability to insure equal educational opportunity, the conferees adopted the following language:

Section 101(2)—

> There is a continual need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin or sex.

The report further states:

> The substitute language is not intended to change or affect existing law or judicial precedent.

I want to make clear for the record that this legislation before the House today in no way establishes any new congressional policy with regard to affirmative action. This proposal contains no restrictions on the Federal Government's use of numerical devices or measures associated with action to remedy past discrimination. The legislative history on S. 210 must be perfectly clear and unambiguous on this point.●

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 514]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boner
Bonior
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1400

The SPEAKER pro tempore (Mr. FOLEY). On this rollcall 384 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 210, DEPARTMENT OF EDUCATION ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I yield such time as remains to the distinguished and able Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

violence, because of the vandalism, and because of public and parental apathy toward the problems in the classroom.

I have always been supportive of the principle of local control in education, and I remain dedicated to that principle. But, with public confidence in education as low as it is, I believe that the Department of Health, Education, and Welfare is an inefficient structure—an inefficient structure to manage the educational needs of this Nation. To retain education in this gigantic bureaucratic structure between health and welfare is to render a disservice to this Nation.

I think we should take education out of HEW and give the priority it requires as an independent Cabinet office. Educational needs must be placed under one management, a single management responsive to the school districts at home, responsive to the parents and to the Congress.

I believe that is what is needed to correct the faults and problems of education which I have seen along the line. We must be ever mindful in this day and age, that the greatest asset to America has been its educational system and the development of its young people. Let us not let that development falter. Let us improve upon it, and let us get back to the standards of educational excellence of which this Nation is capable.

We need a special Department of Education. We are doing it in the best interests of ourselves, of our children, and of our Nation's educational future. I hope that we adopt this conference committee

Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Hamilton
Hammer-
schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo

(Mr. O'NEILL asked and was given permission to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, we are all working in Government together. What is the toughest job in Government, No question, it is that of President of the United States.

What is the second toughest job in Government? Last week, it was that of Speaker.

But overall, it is that of Secretary of Health, Education, and Welfare. How many programs does that Department have? Literally thousands and thousands and thousands of programs. It is unbelievable, the size; and yet, in the 45 meetings that the President's Cabinet had last year, the word "education" or the problem of education was brought up only once.

What is the greatest asset this Nation has? Education is the greatest asset this Nation has. And yet, what has happened? Public confidence in our educational system is the lowest it has ever been, less than a 30-percent positive rating. Rightly so. The aptitude tests scored by American high school graduates today are the lowest in 10 years. Illiteracy exists among those who have been awarded diplomas—yes, even in institutions of higher education like colleges and universities.

Widespread teacher dissatisfaction exists, and teachers are leaving the field of education at an unprecedented level on a daily basis. I know this to be true because I had a daughter who was Teacher of the Year in Virginia. She gave up her job because of the discipline, because of the

report.

□ 1410

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 201, not voting 17, as follows:

[Roll No. 516]

YEAS—215

Akaka
Albosta
Alexander
Anderson,
Calif.
Anderson, Ill.
Andrews, N.C.
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bevill
Biaggi
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Clausen
Clay
Coelho
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Giaimo
Gingrich
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel

Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Leach, Iowa
Lehman
Leland
Levitas
Long, La.
Lowry
Lujan
McCormack
McKay
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Mottl
Murphy, Pa.
Murtha
Natcher
Neal
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Runnels
Russo
Santini
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vento
Volkmer
Watkins
Weaver
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—201

Abdnor
Addabbo
Ambro
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Goldwater
Goodling
Gradison
Minish
Mitchell, N.Y.
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.

Wylie
Yates
Young, Fla.
Zeferetti
Williams, Mont.
Winn
Wyatt
Wydler
Weiss
White
Whitehurst
Whittaker

NOT VOTING—17

Anthony
Beard, Tenn.
Bolling
Carter
Collins, Ill.
Diggs
Findley
Flood
Green
Holtzman
Johnson, Colo.
LaFalce
Murphy, Ill.
Roberts
Rose
Solarz
Staggers

□ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Anthony for, with Mr. Roberts against.

Mrs. Collins of Illinois for, with Mr. LaFalce against.

Mr. Diggs for, with Ms. Holtzman against.

Mr. Staggers for, with Mr. Solarz against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Ashley
Badham
Bafalis
Bailey
Bauman
Beilenson
Bennett
Bereuter
Bethune
Bingham
Boggs
Boland
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conyers
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Fary
Fenwick
Ferraro
Forsythe
Fountain
Frenzel
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hightower
Hinson
Holt
Hopkins
Hyde
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Marlenee
Marriott
Martin
Mazzoli
Michel
Mikulski
Miller, Ohio
Nedzi
Nelson
Nichols
Nowak
O'Brien
Obey
Pashayan
Paul
Peyser
Quayle
Railsback
Regula
Rhodes
Richmond
Ritter
Robinson
Rosenthal
Roth
Rousselot
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Vanik
Walgren
Walker
Wampler
Waxman

96th Congress, 1st Session - - - - - - - House Document No. 96-52

ESTABLISHMENT OF A DEPARTMENT OF EDUCATION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION TO ESTABLISH A DEPARTMENT OF EDUCATION, AND FOR OTHER PURPOSES

FEBRUARY 13, 1979.—Message and accompanying papers referred to the Committee on Government Operations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

To the Congress of the United States:

I am sending to the Congress today my proposal to establish a Department of Education.

There is a compelling need for the increased national attention a separate Cabinet department will bring to education issues. Our Nation's pluralistic education system, considered the most competent and open in the world, faces many problems and challenges: a decline in public confidence in the quality of education; unacceptably high rates of high school dropouts and of young people who lack basic educational tools and specific skills for productive employment; and increasing demands for retraining and learning opportunities.

The primary responsibility for education in our Nation lies with State and local government. The Federal government has a limited, but critical responsibility to help public and private institutions meet these challenges: to ensure equal educational opportunities; to increase access to postsecondary education by low and middle income students; to generate research and provide information to help our educational systems meet the special needs; prepare students for employment; and encourage improvements in the quality of our education. The achievement of each of these goals will be enhanced by a new Department of Education.

Through our legislative and budget initiatives of the past two years, this Administration has given high priority to meeting these educational commitments. My budget for FY 1980 provides for $13.3 billion in education outlays, about a 45 percent increase above the level when I came into office. Last year, we established a legislative framework, the Middle Income Student Assistance program, to help solve one of our major education problems—the growing cost of a college education. The establishment of a Cabinet Department of Education will reflect the continued high priority my Administration places on education.

A Department of Education will bring our Nation's educational challenges and the Federal government's role in meeting them to the forefront of domestic policy discussion. Such discussion is vital to an activity that directly affects 60 million students, teachers and educational employees and constitutes a $120 billion public and private enterprise.

Establishing a separate Department will create, for the first time, a Cabinet-level advocate for education with direct access to the President, the Congress, and the public.

Second, it will give Federal education programs the full-time, high-level leadership and management that they cannot receive in a structure so large and complex as the Department of Health, Education, and Welfare. This will allow the Federal government to fulfill its responsibilities in education more effectively. It will eliminate duplication in the administrative and staff support activities within the Office of the HEW Secretary and the Education Division. It will allow improved financial management and more efficient administration of education programs. Separation of the education functions from HEW will also promote improved management of its closely-related health and welfare responsibilities.

Third, it will provide greater accountability. Submerged beneath HEW's dominant functions of health and welfare, Federal education programs lack full-time accountability at the Cabinet level. With a separate Department of Education, one Cabinet member will report directly to the President and be accountable to the Congress and the American people for the conduct of Federal education policies.

Fourth, it will provide simpler, more reliable, and more responsive support to states, localities, public and private institutions, giving them a direct line of Cabinet-level contact with the Federal government.

Fifth, the new Department will allow better coordination of education programs with related Federal activities, such as employment programs and research. It will also allow high-level consideration of the impact of other Federal policies, such as tax and energy, on education institutions and students.

Under the proposal I am submitting today, the Department of Education will include more than 150 programs and 16,200 employees. With a budget of more than $13 billion, this Department will be larger than five other Departments including Energy, Commerce, Justice, Interior and State.

In addition to the 140 programs in the Education Division of the Department of Health, Education, and Welfare, the new Department of Education will handle educational activities now carried out by several other departments. These include: the U.S. Department of Agriculture School, certain science education programs of the National Science Foundation, the overseas dependents' schools of the Department of Defense, the college housing loan program of the Department of Housing and Urban Development, the Law Enforcement Education and the Law Enforcement Internship Program of the Department of Justice, and the Migrant Education programs of the Department of Labor.

The proposed legislation establishes within the Department of Education separate Offices for Civil Rights, Elementary and Secondary Education, Postsecondary Education and Educational Research and Improvement, each headed by an Assistant Secretary. It establishes an office to administer functions related to the education of overseas dependents of Department of Defense personnel, an Inspector General, and a 20-member Intergovernmental Advisory Council on Education, appointed by the President, to promote better relations with the various levels of government and private institutions.

I urge the Senate and the House of Representatives to act promptly on this important proposal.

JIMMY CARTER.

THE WHITE HOUSE, *February 13, 1979.*

A BILL TO establish a Department of Education, and for other purposes**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act".

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**Introduced in the House as H.R.2444, in the Senate as S.510.

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DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege or activity.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic and private institutions of elementary, secondary, higher and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that:

(a) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(b) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(c) the primary responsibility for education resides with States, localities and private institutions;

(d) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community and the home;

(e) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(f) there is a need for improvement in the management of Federal education programs to support more effectively State, local and private institutions in carrying out their educational responsibilities;

(g) there is a need for improved coordination of Federal education and related programs; and

(h) there is no single, full-time, Federal education official directly accountable to the President, the Congress and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(a) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(b) to support more effectively States, localities and public and private institutions in carrying out their responsibilities for education;

(c) to promote improvements in the quality and usefulness of education through federally supported research, evaluation and the sharing of information;

(d) to improve the management and efficiency of Federal education activities;

(e) to increase the accountability of Federal education programs to the President, the Congress and the public;

(f) to encourage the involvement of the public, parents and students in Federal education programs; and

(g) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision or control over the curriculum, program of instruction, administration or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the election of library resources, textbooks or other instructional material by any educational institution or school system, except to the extent authorized by law.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level I of the executive schedule under section 5312 of title 5 of the United States Code. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level III of the executive schedule under section 5314 of title 5 of the United States Code. The Under Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices. The Under Secretary shall also be responsible for intergovernmental relations in the Department.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the executive schedule under section 5315 of title 5 of the United States Code. An Assistant Secretary shall head each of the Offices created by sections 203, 204, 205, and 206 of this Act.

(b) In addition, there shall be in the Department six officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level V of the executive schedule under section 5316 of title 5 of the United States Code.

(c) The officers created by this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;
(2) public information functions;
(3) management and budget functions;
(4) planning, evaluation and policy development functions; and
(5) encouraging and monitoring involvement of parents, students and the public in departmental programs.

(d) Except as otherwise provided by this Act,

(1) when the name of a person to serve as an officer created by either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries created by section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to such Assistant Secretary all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action or as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within its jurisdiction;

(2) to select, appoint and employ such officers and employees, including staff attorneys; as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates; and

(3) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rates prescribed for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal advisor to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 206. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions and programs of the Department concerning research, development, demonstration, dissemination, evaluation and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 207. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense the director of which shall be one of the officers created by section 202 of this Act.

GENERAL COUNSEL

SEC. 208. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the executive schedule under section 5315 of title 5 of the United States Code.

OFFICE OF INSPECTOR GENERAL

SEC. 209. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11(1) and (2) of such Act are amended by adding "Education," afer the word "Commerce,".

EXECUTIVE LEVEL POSITIONS

SEC. 210. The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by 14.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 211. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators and professors; and

(D) four members of the public, including parents of students and students.

(2) The Under Secretary shall be an *ex officio* member of the Council.

(3) Each member shall have a term of four years: *Provided*, that no member serving pursuant to subparagraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such subparagraph: *Provided further*, that the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 212. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this Act as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions and boards that the President may from time to time deem appropriate with regard to the matters under consideration.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each Federal agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions, programs and offices vested in the Assistant Secretary for Education (or in the Office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions, programs and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare:

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Emergency School Aid Act;

(D) under the Higher Education Act of 1965;

(E) under the Education Amendments of 1978;

(F) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(G) under the Environmental Education Act;

(H) under the National Defense Education Act of 1958;

(I) under the Education of the Handicapped Act;

(J) under part B of title V of the Economic Opportunity Act of 1965;

(K) under subparts I and II of part C of title VII and part B of title VIII of the Public Health Service Act;

(L) under the National Commission on Libraries and Information Science Act;

(M) under the Vocational Education Act of 1963;

(N) relating to Gallaudet College, Howard University, the American Printing House for the Blind and the National Technical Institute for the Deaf;

(O) under the Model Secondary School for the Deaf Act;

(P) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(Q) under section 2030(k) of the Federal Property and Administrative Services Act of 1949; and

(R) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education: *Provided that*, the Secretary may terminate or combine one or more of such advisory committees;

(5) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in such Institute;

(6) the Advisory Council on Education Statistics and all functions vested in such Council; and

(7) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act of 1973.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsection (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 207 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of sponsors of students enrolled in overseas dependents' schools and of professional employee organizations and administrators of such schools.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary all programs relating to science education of the National Science Foundation or its Director established prior to the effective date of this Act pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except such programs, as determined by the Director of the Office of Management and Budget (after consultation with the Director of the Office of Science and Technology Policy), that relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value and science policy issues, or (3) communicating information to practitioners of science and technology and to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission-oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 to initiate and conduct programs not established prior to the effective date of this Act.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c) and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

Sec. 307. The transfer of a function, program or office from an officer or agency to the Secretary or to the Department includes any aspect of such function, program or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) Notwithstanding the second sentence of section 5108(a) of title 5 of the United States Code, the Secretary may place at grade levels GS–16, GS–17, and GS–18 a number of positions in such grades equal to the number assigned and employed on the day preceding the effective date of this Act in connection with functions transferred under this Act.

(2) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 206 of this Act all scientific, professional and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices and programs transferred under this Act.

(3) Appointments under this subsection may be made without regard to the provisions of sections 3104 and 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with a transfer of functons, offices or programs under this Act and, immediately before the effective date of this Act, holds a position and duties comparable to those of the position to which appointed thereunder.

(4) Except as provided in subsection (c), the authority of the Secretary under this subsection to appoint personnel without regard to

sections 3104, 3324 and 5108(a) of title 5 of the United States Code shall cease with respect to any position when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day before the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical or professional employees of the Office created by Section 206 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subpchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS-16 of the General Schedule of section 5332 of title 5 of the United States Code.

(d) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senator Executive Service for 15 limited term appointees. The Secretary shall appoint individuals to such positions as provided by Section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position.

(e) Notwithstanding the transfer of functions effected by section 303 of this Act (and the consequent transfer of personnel), personnel performing such functions shall have commissary and post exchange privileges in facilities of the Armed Forces.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of such title for persons in Government service employed intermittently.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out the functions or conducting offices or programs transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriations Acts) with respect to such function, office or program to the official or agency from which such function, office or program is transferred.

DELEGATION

SEC. 422. Except as otherwise expressly provided in this Act, the Secretary may delegate any function, office or program vested in the Secretary to such officers and employees of the Department as the

Secretary may designate and may authorize such successive redelegations of such function, office or program within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions, offices or programs vested by this Act in such organizational unit or component.

RULES

SEC. 424. The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions, offices and programs vested in the Secretary or the Department in accordance with chapter 5 of title 5 of the United States Code.

CONTRACTS

SEC. 425. Subject to the provisions of the Federal Property and Administration Services Act of 1949, the Secretary is authorized to make, enter into and perform such contracts, grants, leases, cooperative agreements or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions and programs vested in the Secretary or the Department.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter, discontinue or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions and programs vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

Sec. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audio-visual equipment, accessories and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) of the furnishing of services and supplies under paragraphs (2), (3) and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or a part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

Sec. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services and facilities of any agency or instrumentality of the United States, of any State, or of any foreign government, in carrying out any function or program vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations or other organizations, or by individuals, of any real property, or any facility, structure or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures and improvements involved. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or a part of the cost of such work or services or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act and used under the law governing such fund.

(d) All interests in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(a) copyrights, patents and applications for patents, designs, processes and manufacturing data;

(b) licenses under copyrights, patents and applications for patents; and

(c) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests and devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone and other communications services; office space; central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous reecipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities and unpaid obligations relating to the services which the Secretary determines, with the approval of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than ten percent.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. (a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department and the coordination of its functions.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, State and local governments, private institutions, other organizations and individuals. The Secretary shall hold such public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5 of the United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function or program transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any program or office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

SEC. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions or programs of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applicants for grants or contracts with respect to two or more functions or programs administered by the Secretary or the Department: *Provided that*, such packaging or consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions or programs.

TITLE V—TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records and unexpended balance of appropriations, authorizations, allocations and other funds employed, held, used, arising from, available to or to be made available in connection with the functions, programs, offices or portions thereof transferred by this Act, subject to section 202 of the Budget Accounting Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions, offices or programs transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the executive schedule prescribed in chapter 53 of title 5 of the United States Code and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

Sec. 503. (a) The following offices shall terminate upon the transfer of functions or programs pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the executive schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The director of any office in the Department the director of which was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

Sec. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the transfer of functions, programs, offices or portions thereof that relate to or are utilized by an officer, agency, commission or other body, or component thereof, transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records and unexpended balances of appropriations, authorizations, allocations and other funds held, used, arising from, available to or to be made available

in connection with such functions, programs, offices or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates and privileges that—

(1) have been lawfully issued, made, granted or allowed to become effective in the performance of functions or programs which are transferred under this Act to the Department after the date of enactment of this Act, and

(2) are in effect at the time this Act takes effect,

shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate or financial assistance pending at the time this Act takes effect before any department, agency, commission or component thereof, functions, offices or programs of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions, offices or programs so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions or programs of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions or programs of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function, office or program of such department, agency or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function, office or program, shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function or program transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission or agency or any officer or office the functions or programs of which are so transferred shall be deemed to refer to the Secretary, other official or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) Section 5108(a) of title 5 of the United States Code is amended by striking out "10,777" and inserting in lieu thereof "10,838".

(d) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(e) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(f) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(g) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (6).".

(h) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) The Comprehensive Employment and Training Act of 1973 is amended as follows:

(1) Section 111(a) shall read:

"SEC. 111(a). The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions."

(2) Section 127(b) is amended by striking out "and the Secretary of Health, Education, and Welfare" in the first line and inserting in lieu thereof, "the Secretary of Education and the Secretary of Health Human Services".

(3) Section 311(g) is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) Section 314 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) Section 438(a)(2) is amended by striking out the words "Health, Education, and Welfare," and inserting in lieu thereof the words "Education, Secretary of Health and Human Services,";

(6) Section 502(a) is amended by

(A) striking out the number "15" and inserting in lieu thereof "16"; and

(B) striking out the words ", Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof the words "Education, Secretary of Health and Human Services".

(j) Section 5 The Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after the word “Secretary” in the first sentence, the words, “, the Secretary of Health and Human Services,”; and

(2) by striking out the words “of Health, Education, and Welfare” in the second sentence and inserting in lieu thereof the words “, Department of Health and Human Services,”.

(k) Section 1411 of the Defense Dependents' Education Act of 1978 is amended:

(1) by inserting in subsection (a) (1) thereof after the words “Assistant Secretary”) ”the words . . .

> “and principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Act,”

and by striking out in such subsection the word “Chairman” and inserting in lieu thereof “Co-chairmen”:

(2) by adding in subsection (a)(2) thereof after the word Secretary,” the words

> “and the principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Act,”;

(3) by striking out all of subparagraphs (A) and (B) of subsection (a)(3) thereof, inserting in lieu thereof the new subparagraph (A) which shall read—

> “(A) the Secretary of Education,”

and relettering subparagraphs (C), (D), and (E) of paragraph (3) as (B), (C), and (D), respectively; and

(4) by adding to subsection (c) thereof a new paragraph (2) which shall read

> “(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions of under the Dependents' Education Act of 1978 to the Secretary and Department of Education,”

and renumbering paragraphs (2), (3) and (4) of subsection (c) as paragraphs (3), (4), and (5), respectively.

(l) Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence:

> “The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.”

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction or other official paper in force on the effective date of this Act will be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or program transferred to the Secretary under this Act.

TRANSITION

Sec. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the departments and agencies from which functions, offices or programs have been transferred to the Secretary, and funds appropriated to such functions, offices or programs, for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act. Funds available to any Department or agency (or any official or component thereof), the functions, offices or programs of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with establishment of the Department or transfer of functions, offices or programs thereto until such time as funds for these purposes are otherwise available.

INTERIM APPOINTMENTS

Sec. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

October 17, 1979

Office of the White House Press Secretary

THE WHITE HOUSE

Fact Sheet

The President is today signing a bill, S. 210, establishing a Department of Education.

The reorganization separates the Education Division from the Department of Health, Education and Welfare, combining it with education programs from five other federal agencies. It renames the remaining HEW structure the Department of Health and Human Services.

The bill becomes effective within six months after the first Secretary of Education takes office.

The Department of Education bill will include 152 existing federal education programs:

- Education Division, including elementary, secondary and postsecondary education programs and research activities (Department of Health, Education and Welfare).
- Education and vocational rehabilitation-related activities of the Office of Civil Rights (Department of Health, Education and Welfare).
- Overseas Dependents' Schools (Department of Defense).
- Vocational Rehabilitation Program (Rehabilitation Services Administration, Department of Health, Education and Welfare).
- Law enforcement student loan programs (Department of Justice).
- The College Housing Loan Program (Department of Housing and Urban Development).
- Migrant education programs (Department of Labor).
- Special institutions for which the Department of Health, Education and Welfare exercises budgetary oversight, including Howard University, Gallaudet College, the American Printing House for the Blind and the National Technical Institute for the Deaf.
- Telecommunications Non-Broadcast Demonstration Program (Department of Health, Education and Welfare).
- Department of Agriculture Graduate School.
- Certain science education programs (National Science Foundation).

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Manpower and Budget

Under current budget levels, the 152 programs to be included in the Department of Education have a total budget authority of $14.2 billion and a total personnel level of 17,000.

The Department of Education bill mandates a reduction in this personnel level equivalent to 500 full-time positions, effective no later than September 30, 1981. The reduction will save an estimated $20 million. The bill further mandates that all future congressional appropriations for the Department of Education include specific manpower "ceilings."

Limits on Federal Responsibility

The Department of Education bill asserts the primacy of local responsibility for education. Section 103 states:

> The establishment of the Department shall not increase the authority of the federal government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the State.

The bill specifically protects the rights of State, local governments and institutions in all areas of education policy, program and administration.

Advantages

1. Increased Attention to Education Issues

For the first time, there will be a Cabinet-level spokesman on education issues able to stir greater national discussion of critical education concerns. The American people will have a much clearer perspective on what the federal government is doing in education and who is responsible for such activities.

2. Greater Accountability

For the first time there will be a single agency, and a single Cabinet secretary, responsible full-time for the effective conduct of federal education programs.

3. Less Red Tape

Separating education programs from HEW will eliminate unnecessary bureauracracy, thereby promoting better service for local school systems. For the first time, there will be a direct, unobstructed relationship between those who administer federal aid-to-education programs and those at the local level who actually provide education.

4. Savings

In addition to the mandated personnel reductions (cited above), the reorganization will permit further administrative savings by bringing increased top-level attention to education issues.

The Department of Education conference report was approved by the Senate on September 24 by a vote of 69 to 22. It was improved in the House September 27 by a vote of 215 to 201.

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OCTOBER 17, 1979

FOR IMMEDIATE RELEASE

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Education is our most important national investment. It commands the time and attention of 60 million Americans -- three citizens in ten. It consumes an annual public and private expenditure in excess of $120 billion.

Every citizen has a vital, personal stake in this investment. Our ability to advance both economically and technologically, our country's entire intellectual and cultural life depend on the success of our great educational enterprise.

At no time in our history has our nation's commitment to education been more justified. At no time in our history has it been more obvious that our nation's great educational challenges cannot be met ~~with increased resources alone.~~

I came to the office of the Presidency determined that the American people should receive a better return on their investment in education. I came equally determined that our nation's formidable educational challenges should be brought to the forefront of national discussion -- where they belong.

Primary responsibility for education should rest with those states, localities, and private institutions that have made our nation's educational system the best in the world. But the federal government has for too long failed to play its own supporting role in education as effectively as it could. Instead of assisting school officials at the local level, it has too often added to their burden. Instead of setting a strong administrative model, the federal structure has contributed to bureaucratic buck-passing. Instead of stimulating needed debate of educational issues, the federal government has confused its role of junior partner in American education with that of silent partner.

The time has passed when the federal government can afford to give second-level, part-time attention to its responsibilities in American education. If our nation is to meet the great challenges of the 1980's we need a full-time commitment to education at every level of government -- federal, state and local.

The Department of Education bill will allow the federal government to meet its responsibilities in education more effectively, more efficiently, and more responsively.

First, it will increase the nation's attention to education. Instead of being buried in a $200 billion-a-year bureaucracy, educational issues will receive the top-level priority they deserve. For the first time, there will be a Cabinet-level leader in education, someone with the status and the resources to stir national discussion of critical education concerns.

Second, it will make federal education programs more accountable. For the first time there will be a single Cabinet secretary, responsible full-time for the effective conduct of federal education programs.

Third, it will streamline administration of aid-to-education programs. Separating education programs from HEW will eliminate unnecessary bureaucracy, cut red tape and promote better service for local school systems. For the first time there will be a [illegible] relationship between those who administer [illegible] education programs and those who actually provide education [illegible].

[illegible]

Fourth, a Department of Education will save tax dollars. By eliminating bureaucratic layers, the reorganization will permit direct, substantial personnel reductions. By enhancing top-level management attention to education programs, it will mean improved educational services at less cost.

Fifth, it will make federal education programs more responsive. Placing education in a highly visible department of its own gives the American people a much clearer perspective on what the federal government is doing in education and who is responsible for these activities. It allows people to better decide what the government should -- and should not -- be doing in education.

Sixth, a Department of Education will ensure that local communities retain control of their schools and education programs. That is essential if our schools are to serve their students properly, and the Department of Education will therefore not permit the federal government to begin making decisions on education policy that are best made at the local level.

The Department of Education bill will permit improved administration of the government's health and human service programs, whose functions are closely related. It will allow the government to focus greater attention to the needs of those Americans who need it most -- the poor, the disabled, and the elderly.

Today's signing fulfills a long-standing personal commitment on my part. My first public office was as a county school board member. As a state senator and governor I devoted much of my time to education issues. I remain convinced that education is one of the noblest enterprises a person -- or a society -- can undertake.

I would like to thank the leadership of both houses of Congress for bringing this historic measure to final passage. I would like to pay particular tribute to the leadership role of Chairman Jack Brooks, Senator Abe Ribicoff, Senator Chuck Percy, and Congressman Frank Horton. Your relentless dedication to this legislation has earned you the gratitude of every citizen.

I would like also to salute the active participation in this legislative struggle by a strong coalition of groups devoted to educational quality and equal educational opportunity. You refused to believe that education is a part-time responsibility -- for the federal government or for yourselves.

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FOR IMMEDIATE RELEASE OCTOBER 17, 1979

Office of the White House Press Secretary

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
AT A
SIGNING CEREMONY FOR THE
DEPARTMENT OF EDUCATION BILL

The East Room

10:10 A.M. EDT

THE PRESIDENT: Thank you very much.

The first thing I want to do is to invite into the room the real beneficiaries of the new Department of Education, a group of fourth grade students from Brent Elementary School. (Applause)

This morning they can stand where they want to. (Laughter)

In 1962, I was serving on a local school board in the deep South and had been for seven years. We were going through a time of sociological change when public elected officials and churches, business leaders, stood mute while children suffered because of ancient policies of racial discrimination. That situation changed because of schoolteachers and the courage of educators who saw the devastating effect of continued racial policies in the South and throughout the country.

I decided to run for the State Senate to see if I could help in Georgia, based on my own experiences under those trying circumstances, and when I got to Atlanta as a newly-elected Senator, I had one request and that was that I be put on the Education Committee, and I was.

I later ran for Governor and my prime campaign commitment was to improve education in Georgia. And we did.

I spent probably 25 percent of my time as Governor trying to deal with better education for our students. When I became President, that situation was drastically different. There has not been in the Federal Government an adequate mechanism by which we can improve the quality of education in the United States, and I say that not in criticism of those who have served under such difficult circumstances, but I think you could interrogate local elementary and high school principals and classroom teachers, county school board members, state school superintendents, college professors, university presidents, Governors, and you would find an almost complete negative attitude toward how much support is given from the Federal Government for better education compared with the tremendous potential that exists.

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As Fritz pointed out, we have increased tremendously the Federal financial contribution to education, 60 percent in 2-1/2 years with the help of the Congress. This has obviously been focused in a very fine way, but the interrelationship between local people, public and private education, and state officials who are directly responsible and ought to have control over the policy of the schools, relationship between them on the one hand and the Federal bureaucracy on the other one, has been a very poor record.

I don't know what history will show, but my guess is that the best move for the quality of life in America in the future might very well be the establishment of this new Department of Education because it will open up for the first time some very substantial benefits for our country.

There is a growing concern in our Nation about the decrease of the measurement of the quality of education through testing, through the achivement levels of our students and it is not the students' fault. It is not the teachers' fault that there have been obstacles placed in the way of better education because of bureaucracy, too much red tape, too much confusion and inadequate consultative process.

When I was Governor, I didn't know where to go in Washington to get the answer to a question about education in my state. And I will bet you very few, I will bet you not more than two or three Governors in this Nation know who specifically is responsible for the educational programs in Washington. I will bet you not 10 percent of the Members of the House and Senate know specifically who is responsible.

In the future, I hope that everyone will know who is interested in education -- this is the Secretary of Education -- and that is the person I will go to to get the answer to a question or to resolve a problem or to overcome a difficulty. That is a great step in the right direction.

Also I hope and I pray and I am determined that we are going to cut out unnecessary forms, applications, red tape, regulations that have been an obstacle in the past. (Applause)

It is important for us to remember that education is the biggest single national investment in the United States. Sixty million Americans are directly involved in the educational process. That is three Americans out of every ten who work in a direct or indirect way in education, $120 billion spent in our country every year on education. And I want to see that investment of human and financial resources pay rich dividends in the future. It hasn't in the past, not nearly up to the potential. We are going to change that.

MORE

I believe that we can have, in the future, the acknowledgement that policy, curriculum, personnel decisions should be made at the local level as close as possible to the parents and to the students in private and public education and that the Federal government is there eager to help, to bridge gaps, to consult, to remove problems, and I hope the prime focus will be on the quality of the knowledge and the future life of each student.

I think this can be a fairly narrowly-focused commitment. It is not possible to have that focusing of attention in Health, Education and Welfare where education is buried under the enormous responsibilities of welfare, health, and other related subjects.

There can also be a substantial saving in administrative cost, and that is built into the legislation in a mandatory fashion. I won't go into the details about it and I believe that in the future we can have a much more responsive Federal government where, if a problem should arise in an embryonic way, an educator can know exactly where to go to get an answer, and where there can be a bridging of a chasm that quite often in the past has separated educators from the Federal government.

It is not going to be a panacea which can resolve every problem immediately. But I am determined to make it work. And I am very grateful to all of those who have been instrumental in reaching this goal after-- I don't know how many years of frustrated efforts. Sometimes it didn't look as though we were going to make it and Fritz has already thanked those who have helped. Educators, local officials of all kinds, interested parents, students helped, and I think in the House and Senate, as Fritz has already said, we had superb bipartisan leadership.

I would like to introduce now to speak for the House Jack Brooks, who is a formidable ally to have in a tough fight. (Laughter, applause) He hates to lose, and he rarely does. (Laughter) And I am very grateful to Jack Brooks because there were times when the outcome was in doubt and had it not been for him, we would not have prevailed, and I think what he has done for me as President, for our government, and for the children, and other students in our country, is a notable achievement, and I am deeply grateful to Jack.

I might point out that Frank Horton and the Republicans helped enormously to make sure that the Nation knew and the votes indicated that this is not a partisan issue, as Fritz has already pointed out. But I would like to introduce to you my friend with a great deal of gratitude, Jack Brooks. (Applause)

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REPRESENTATIVE BROOKS: Mr. President, I want to thank you. It gives me great pleasure to be here on this occasion.

We weren't always sure we would make this trip. (Laughter) But an educated citizenry is essential to the survival of a democratic form of government, to the promotion of justice and equality, and to our country's economic progress, and for the first time, our $14 billion education program will be receiving presidential attention, and the managers can be held accountable for achieving maximum results.

So I want to congratulate you, Mr. President, for your insight, your leadership in the field of education. This bill is a result of cooperation and teamwork between the White House and the Congress, and we are just pleased to join you here in finalizing that successful effort. (Applause)

THE PRESIDENT: I don't know if Carl Perkins is here. Is he? I wanted to particularly thank him. Jack, you tell him that we missed him and thank him specially.

Now I would like to turn to Abe Ribicoff, who had a similar responsibility and achievement in the Senate. He, contrary to Jack Brooks, made an extremely difficult issue look easy. (Laughter) But I was involved in both fights on both sides, and they are great allies to have, but I would like to call now on Abe Ribicoff to come and say a word, if he will. Abe? (Applause)

SENATOR RIBICOFF: Mr. President, in 1960 President-elect Kennedy asked me what job I would like in the Cabinet. I told him I would like to go to HEW, and the basic reason for that was education. When I got in the Cabinet, I realized that the problems of health and welfare were so overriding that education was relegated to the back burner.

When I came to the Senate in 1963, the first measure I placed in the hopper was the creation of a Department of Education. I felt then that it was absolutely essential, if we were able--if we were to take care of children such as this, we needed the organization to put into effect the huge expenditures of money that we have been appropriating, and I am so pleased that President Carter was the first President during that interim period who realized the absolute necessity for a Department of Education.

So now it has become a reality, organization is policy, the policies that we have been adopting can be put into effect, and I want to take this opportunity of thanking my colleagues in the Congress, and especially you, Mr. President, for making it possible for this Nation to move forward for all its people with a Department of Education. (Applause)

THE PRESIDENT: I don't think Senator Percy is here, but he was a strong right arm for Abe Ribicoff. Is Dr. Benjamin Mays here? I have been looking around to see if I could find him. Dr. Mays, would you come here, please?

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Dr. Mays probably personifies the dedication of educators as well, or perhaps better than anyone I know in this country. He has been involved in education and under the most trying circumstances for more than 50 years, as a teacher, as a President of a great university, as a leader in the extremely difficult sociological changes that took place under the aegis of education, which required great courage, and his personal influence over many Americans, including myself.

I think he personifies -- just to repeat myself -- the finest elements of education, and I just thought it might be good for me to get one of the fourth graders from Brent and for Dr. Mays to stand here just to show you how important it is to bridge the generation gap and how the beneficial effect of distinguished and dedicated educators -- many of whom cannot be recognized--how their impact on the life of a child can be so beneficial to our country.

So I just want to get these two up here with me. (Applause)

And now I would like to sign the bill. (Applause)

END (AT 10:25 A.M. EDT)